

Voting Procedures

Chairman: Introduce the item

Staff: Presents the item

Chairman: Ask for those wishing to speak in support, then asks for those wishing to speak in opposition. Note: Planning Commission does not “debate” the issue at this time.

Chairman: Following presentation by staff and comments by the public, the chairman asks for a (main) motion. Motions should be in the positive not the negative.

Example: I move to approve as submitted or I move to approve with staff comments. **I second the motion.**

Chairman: Asks for discussion on the main motion.

Planning

Commission: Discussion, questions and debate by the planning commission. It is very helpful if the Planning Commission articulate why they are voting on an item and especially if voting against the motion to approve.

Chairman: Following Planning Commission discussion, the chairman asks for any amendments. If there are any amendments then a motion to amend and a second is required. Ask for discussion on the motion to amend. The vote on the amendments and if the amendments are approved, then;

Chairman: Calls for a vote on the amended main motion, or if the main motion was not amended then vote on the main motion.

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
May 14, 2019

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. APPROVAL OF MINUTES FROM April 9, 2019

IV. STAFF COMMENTS AND PROCEDURES

1. Rezoning #8-5-19; A request by Ron Brixey, agent for Baxter Hillside Ranch, LLC, for a zone change from Not Zoned to Residential Single Family Low Density (RS-1) by extension at 6405 Rye Hill Road East.

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

2. Variance #12-5-19; A request by Bobby Aldridge, agent, for Jerry Glidewell/Fort Smith Boys and Girls Club, for an exterior side-yard setback from 25' to 0' at 3000 Dodson Avenue

RECESS BOARD OF ZONING ADJUSTMENT
CONVENE PLANNING COMMISSION

3. Conditional Use #8-5-19; A request by Bobby Aldridge, agent for Jerry Glidewell/Fort Smith Boys and Girls Club, for improvements to an existing park at 3000 Dodson Avenue.

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

4. Variance #14-5-19; A request by Ron Brixey, agent for the Fort Smith Airport Commission and Fuller Realty, LLC, from the Outdoor Advertising Sign regulations (1) from 13 feet to 1.8 feet minimum height at the lowest portion of the face surface of the sign and (2) from the Outdoor Advertising Sign Bank regulations at 5199 Old Greenwood Road.
5. Variance #13-5-19; A request by Bobby Aldridge, agent for George Catsavis, Madelyne Revocable Family Trust and First National Bank, (1) from 150 feet to 44 feet minimum separation between driveways and (2) from 170 feet to 28 feet minimum separation between driveway and an intersection at 20-28 North 6th Street.

RECESS BOARD OF ZONING ADJUSTMENT
CONVENE PLANNING COMMISSION

6. Conditional Use #9-5-19; A request by Bobby Aldridge, agent for George Catsavis, Madelyne Revocable Family Trust and First National Bank, for a commercial parking lot at 20-28 North 6th Street.
7. UDO Amendment- An amendment to Appendix A (The Land Use Chart) allowing Community Food Services as a Conditional Use in Commercial Light (C-2), Commercial Moderate (C-3), and Commercial Regional (C-4) zones.

8. Conditional Use #10-5-19; A request by Darla Lackey, agent for Visiliki Properties, for a conditional use for a Community Food Services facility at 2711 Park Avenue.
9. UDO Amendment – Massard Overlay.
10. UDO Amendment – An amendment to the Extraterritorial Jurisdiction allowing a Planned Zoning District.

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES**

ROSE ROOM: CREEKMORE PARK COMMUNITY CENTER

April 9, 2019 – 5:30 P.M.

Before calling the meeting to order, Chairman Keesee asked everyone to stand for the Pledge of Allegiance. On roll call, the following commissioners were present: Don Keesee, Richard Morris, Vicki Newton, Kelly Wilson, Ret Taylor, Marshall Sharpe, Griffin Hanna and Bob Cooper. Shane Laster was absent.

Chairman Keesee announced the resignation of Shane Laster and that this was the last meeting for Marshall Sharpe and Bob Cooper.

Chairman Keesee then called for a motion on the minutes from the April 9, 2019, meeting. Commissioner Morris made one amendment. Commissioner Taylor moved, seconded by Commissioner Sharpe, to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

1. Rezoning #3-2-19; A request by Carroll King, owner, for zone change from not zoned to a Planned Zoning District (PZD) at 7704, 7708 and 7714 Fort Chaffee Boulevard (Table March 12, 2019)

Chairman Keesee introduced item 1. He stated that this item had been tabled at the February and March meetings to allow time for land use issues to be resolved by the Fort Chaffee Redevelopment Authority's Real Estate Committee. Chairman Keesee indicated that the Real Estate Committee had met and was currently working on the issue, but no action had been taken. He asked the planning commission to consider tabling the item until the FCRA takes action. Commissioner Taylor moved, seconded by Commissioner Wilson to table the request until action had been taken by the FCRA.

No one was present to speak in favor or opposition of the application.

There being no discussion, Chairman Keesee called for a vote. The vote was 7 in favor and 1 abstention (Cooper). Chairman Keesee announced the tabling of this item was approved.

2. Huntington Chase Commercial Park, Phase II – Final Plat – A request by Crafton Tull & Associates.

Chairman Keesee introduced item 2. Ms. Brenda Andrews read the staff report indicating the approval of the proposed final plat would facilitate future commercial development of the property; however, at this time no specific development is proposed. Ms. Andrews stated that the property is located on Hutcheson Court, comprised of three lots, containing approximately 9 acres.

Conner Threet was present to represent this application. No one was present to speak in favor or opposition of these applications.

Chairman Keesee called for a motion on the application. Commissioner Taylor, seconded by Commissioner Wilson, to approve the request, subject to the following:

After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the Sebastian County Clerk.

Commissioner Taylor asked for clarification regarding unbuildable lot. Mr. Threet explained that Lot 1A is considered wetlands and is located in a flood zone.

Chairman Keesee called for a vote on the motion to approve the item with staff comments. The vote was 7 in favor and 1 abstention (Cooper). Chairman Keesee announced the final plat was approved.

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

- 3. Variance #10-4-19; A request by Ricky Hill, agent for A.B. Littlefield III, for a variance from gasoline sales setback requirements to allow a pump island and supportive canopy posts from 20' to 11' and an island canopy overhang from 10' to 2' from a public right of-way at 3401 Cavanaugh Road.**

Chairman Keesee introduced item 3. Mr. Wally Bailey read the staff report indicating approval of the variance request would allow for the replacement of the existing damaged canopy. Mr. Bailey stated that balcony was damaged in a windstorm. He then read from the UDO Section 27-118-3 regarding nonconforming structures. Mr. Bailey stated that nonconforming structures may continue until destroyed or damaged. He stated that if the structure does become destroyed or damaged to the extent that the cost of repairs is more than 50 percent of the value, then several conditions must be met, one being the approval of a conditional use permit. Mr. Bailey explained that by approving the variance, the applicant could avoid the inconvenience of obtaining a conditional use permit upon each replacement.

Ricky Hill was present to represent the application. No one was present in opposition of the application.

Chairman Keesee called for a motion on the application. Commissioner Cooper, seconded by Commissioner Hanna, to approve the request as submitted. Chairman Keesee called for a vote on the motion to approve the item with staff comments. The vote was 8 in favor and 0 opposed. Chairman Keesee announced the variance was approved.

- 4. Variance #12-4-19; A request by Neal Morrison, agent for Marion Driscoll, for an interior side-yard setback from 20' to 7' at 7111 Phoenix Avenue.**

Chairman Keesee introduced item 4. Ms. Maggie Rice read the staff report indicating the approval of the variance request would allow a 7' interior side yard setback for an approximate

20' by 14' storage building constructed of high-quality materials, associated with the hotel development.

No one was present to speak for or against this application.

Chairman Keesee called for a motion on the variance. Commissioner Cooper moved, seconded by Commissioner Wilson, to approve the variance request with the following conditions:

Compliance with the submitted site plan and with the UDO's requirement regarding high quality materials. The vote was 8 in favor and 0 opposed. Chairman Keesee announced the variance was approved

- 5. Variance #11-4-19; A request by Ron Brixey, agent for Jeff Fenwick, from required street access of residential collector or higher and perimeter landscaping and parking lot screening requirements at 1901 South Boston Street.**
- 6. Rezoning Application #6-4-19; A request by Ron Brixey, agent for Jeff Fenwick, for zone change from Transitional (T-1) to Commercial Neighborhood Compatible (C-1) by classification at 1901 South Boston Street.**
- 7. Conditional Use #7-4-19; A request by Ron Brixey, agent for Jeff Fenwick, for a Barber Shop/ Salon/ Spa/ Massage Services at 1901 South Boston Street.**

Chairman Keesee introduced items 5, 6 and 7. Ms. Brenda Andrews read the staff reports indicating the purpose of the Variance, Rezoning, and Conditional Use would allow the reuse of the existing building as a salon. Ms. Andrews stated that the property was located on the north side of Boston Street and west of Jenny Lind Road containing approximately 0.17 acres with about 88 feet of street frontage along Boston Street. Ms. Andrews indicated the existing parking lot area would provide the minimum number required parking spaces, but only if the variance is granted to eliminate the perimeter landscape and parking lot screening along the street right-of-way. Ms. Andrews stated that in lieu of placing the landscaping in front of the new parking area, the applicant proposed to remove existing concrete in front of the building to create a 10 foot wide landscape buffer.

Ron Brixey was present to represent the applications for 5, 6 and 7. No one was present to speak in opposition of these applications.

Chairman Keesee called for a motion on item 5—the variance. Commissioner Taylor moved, seconded by Commissioner Newton, to approve the variance subject to the submitted site plan which includes a 10-foot wide landscape buffer adjacent to Boston Street in front of the existing building.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposition. Chairman Keesee announced the request was approved.

RECESS BOARD OF ZONING ADJUSTMENT
CONVENE PLANNING COMMISSION

- 6. Rezoning Application #6-4-19; A request by Ron Brixey, agent for Jeff Fenwick, for zone change from Transitional (T-1) to Commercial Neighborhood Compatible (C-1) by classification at 1901 South Boston Street.**

Chairman Keesee called for a motion on item 6—the rezoning application. Commissioner Cooper moved, seconded by Commissioner Sharpe, to approve the rezoning application, subject to the following staff comments:

- Contingent upon the approval of the companion conditional use application

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposition. Chairman Keesee announced the request was approved.

- 7. Conditional Use #7-4-19; A request by Ron Brixey, agent for Jeff Fenwick, for a Barber Shop/ Salon/ Spa/ Massage Services at 1901 South Boston Street.**

Chairman Keesee called for a motion on item 7—the conditional use. Commissioner Hanna moved, seconded by Commissioner Cooper, to approve the conditional use application, subject to the following staff comments:

- Construction must comply with the submitted development plan.
- Changes or amendments to the plan are permitted but limited to those described in Section 27.329.8 of the UDO.
- All proposed exterior lighting must comply with the UDO Commercial and Outdoor Lighting requirements.
- If a dumpster is proposed, it must be completely screened and comply with the UDO.
- If signage is proposed, they must submit a signage application for staff review and approval before installation.

Chairman Keesee called for a vote. The vote was 8 in favor and 0 opposition. Chairman Keesee announced the request was approved.

- 8. Home Occupation #3-4-19; A request by Mamie Feimster, owner, for a mobile ice cream truck at 2410 North 32nd Street.**

Chairman Keesee introduced item 8. Ms. Maggie Rice read the staff report indicating the approval of the home occupation request would allow for the operation of a mobile ice cream truck, to be housed in the garage of the residence when not in use.

Mamie Feimster was present to represent application.

No one was present to speak in opposition of these applications.

Chairman Keesee called for a motion on the home occupation. Commissioner Cooper moved, seconded by Commissioner Sharpe, to approve the home occupation application, subject to the following:

- Compliance with UDO Section 27-338-F Minimum Requirements for Consideration
- The business license is nontransferable to another location without a new home occupation request.

Chairman Keesee called for a vote. The vote was 8 in favor and no opposition. Chairman Keesee announced the item was approved.

There being no further business, the meeting adjourned at approximately 6:00 p.m.

Memo

To: City Planning Commission

From: Planning Staff

Date: May 10, 2019

Re: Rezoning #8-5-19 - A request by Ron Brixey, agent for Baxter Hillside Ranch, LLC, for Planning Commission consideration of a zone request from Not Zoned (NZ) to Residential Single Family Low Density (RS-1) by extension at 6405 Rye Hill Road East

PROPOSED ZONING

Approval of the zoning will facilitate the owner to subdivide the property for single family homes.

LOT LOCATION AND SIZE

The subject property is on the south side of Steep Hill Road and north of Rye Hill Road between Steep Hill Cutoff Road and Old Highway 71. The tract contains an area of 21.34 acres with approximately 389 feet of street frontage along Rye Hill Road and 1,700 feet of street frontage along Steep Hill Road.

REQUESTED ZONING

The proposed zoning on this tract is Residential Single Family Low Density (RS-1). Characteristics of this zone are as follows:

Purpose:

The purpose of the Single Family Low Density zoning district is to maintain, protect, and provide opportunities for low density residential development in spacious environments, along with compatible limited public and institutional uses. RS-1 zoning is appropriate in the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

Single-family dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 14,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 3 Dwelling Units/Acre	Maximum Lot Coverage - 30%
Minimum Lot Width at Building Line – 100 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 30 feet	
Side Yard on Street Side of Corner Lot - 30 feet	
Side Yard Setback – 10 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 15 feet	

EXISTING ZONING

The property is currently Not Zoned.

SURROUNDING ZONING AND LAND USE

The areas to the north and west are zoned Extraterritorial Jurisdiction Open-1(ETJ Open-1) and developed as single family residences.

The area to the east is not zoned and is developed as a single family residence.

The area to the south is zoned RS-1 and developed as single family residences and undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Rye Hill Road as a Major Arterial and Steep Hill Road as a local street.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

NEIGHBORHOOD MEETING

A neighborhood meeting was held on Thursday May 2nd, 2019 at 4:30 P.M. at 5223 East Highway 45. Four neighboring property owners attended the meeting and had no objections to the rezoning and the proposed development plan. A copy of the attendance record and meeting summary are enclosed.

STAFF COMMENTS

In staff's opinion the proposed RS-1 zoning is compatible with the surrounding zoning and land uses. A portion of the property is currently zoned RS-1 and platted as Crescent View, Lots 1-5. The proposed plat/development plan will plat the currently unzoned area as Lot 6. It's possible that this may be subdivided into smaller lots.

STAFF RECOMMENDATIONS

Staff recommends approval of the zoning application with the following comments:

- 1) The platting of the property will comply with all of the subdivision regulations.
- 2) Planning commission approval is required if more than 5 new lots are created.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

A part of the Southwest Quarter of Section 13, T-7-N, R-32-W,
Fort Smith, Sebastian County, Arkansas.

Complete description attached.

2. Address of property: **6405 Rye Hill Road East**

3. The above described property is now zoned: **Not Zoned**

4. Application is hereby made to change the zoning classification of the above described property to RS-1 (Residential by Extension
Single - Family (Extension or classification)
Low Density

5. Why is the zoning change requested?

The owner proposes to plat the property into smaller tracts.

The City requires zoning prior to platting.

6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Ron Brixey

Owner or Agent Name
(please print)

Owner

5223 East Hwy. 45, Fort Smith, Ar 72916

Owner or Agent Mailing Address

Of

479-646-6394 ext. 1

Owner or Agent Phone Number

Agent

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

Part of the Southwest Quarter of Section 13, T-7-N, R-32-W, Fort Smith,
Sebastian County, Arkansas.

Complete description attached.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

None


Signature


(If no restrictive covenants exist, indicate "none".)*

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Ron Brixey to act as our agent in the
(Print Name of Agent)
matter.

(Type or clearly print)

<u>NAMES OF ALL OWNERS.</u>	<u>SIGNATURE OF ALL OWNERS.</u>
1. <u>Baxter Hillside Ranch, LLC</u>	 <u>John Baxter, managing Partner</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

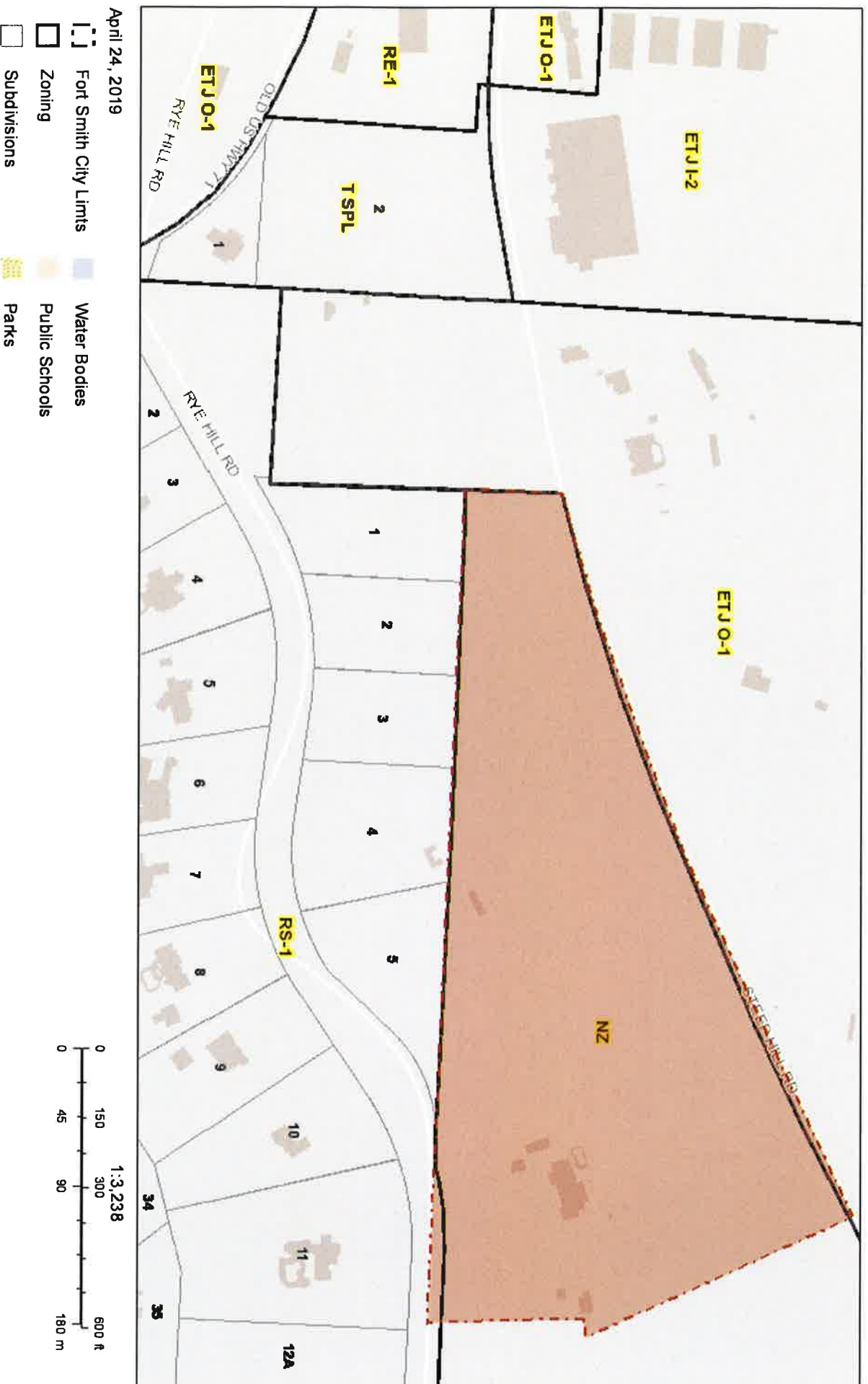
This form is necessary only when the person representing this request does not own all property.

SURVEY DESCRIPTION

Part of the South one half of the Southwest Quarter (SW/4) of Section 13 and Part of the North one half of the Northwest Quarter (NW/4) of Section 24, all in Township 7 North, Range 32 West, Sebastian County, Arkansas, the overall boundary being more particularly described as follows:

Commencing at an existing aluminum monument at the Southwest corner of said SW/4 of Section 13; thence S 87°18'23" E, 422.09 feet along the South line of said SW/4 to an existing rebar being the Point of Beginning; thence N 03°36'22" E, 180.86 feet to an existing rebar on the South right of way line of Steep Hill Road; thence along said right of way line 831.92 feet along the Arc of a curve to the left having a chord bearing N 70°33'11" E, 830.62 feet and a radius of 4297.30 feet; thence N 65°03'02" E, 609.90 feet along said right of way line to a set rebar; thence N 65°12'02" E, 239.20 feet along said right of way line to a set rebar; thence leaving said right of way S 23°55'19" E, 620.49 feet to a set rebar; thence S 82°20'06" W, 43.11 feet to a set rebar; thence S 00°45'37" E, 325.30 feet to a set P/K nail in Rye Hill Road East on the South line of said Section 13; thence N 87°18'23" W, 389.82 feet along said South line to a set rebar at the Northeast corner of said Lot 5 Crescent View; thence along the North line of said Crescent View the following Seven (7) courses: N 87°18'10" W, 662.79 feet to an existing rebar; N 87°46'02" W, 123.13 feet to an existing rebar; N 87°56'06" W, 188.15 feet to a set rebar; N 87°49'00" W, 199.28 feet to a set rebar; N 87°10'10" W, 79.21 feet to a set rebar; N 87°51'40" W, 63.93 feet to a set rebar; S 89°38'18" W, 73.87 feet to a point on the West line of Lot 1 Crescent View; thence along said West line N 03°36'22" E, 9.08 feet to the point of beginning containing 0.04 acre in said NW/4 of Section 24 and 21.28 acres in said SW/4 of Section 13, in Aggregate containing 21.34 Acres, more or less, being subject to public road rights of way and any easements of record.

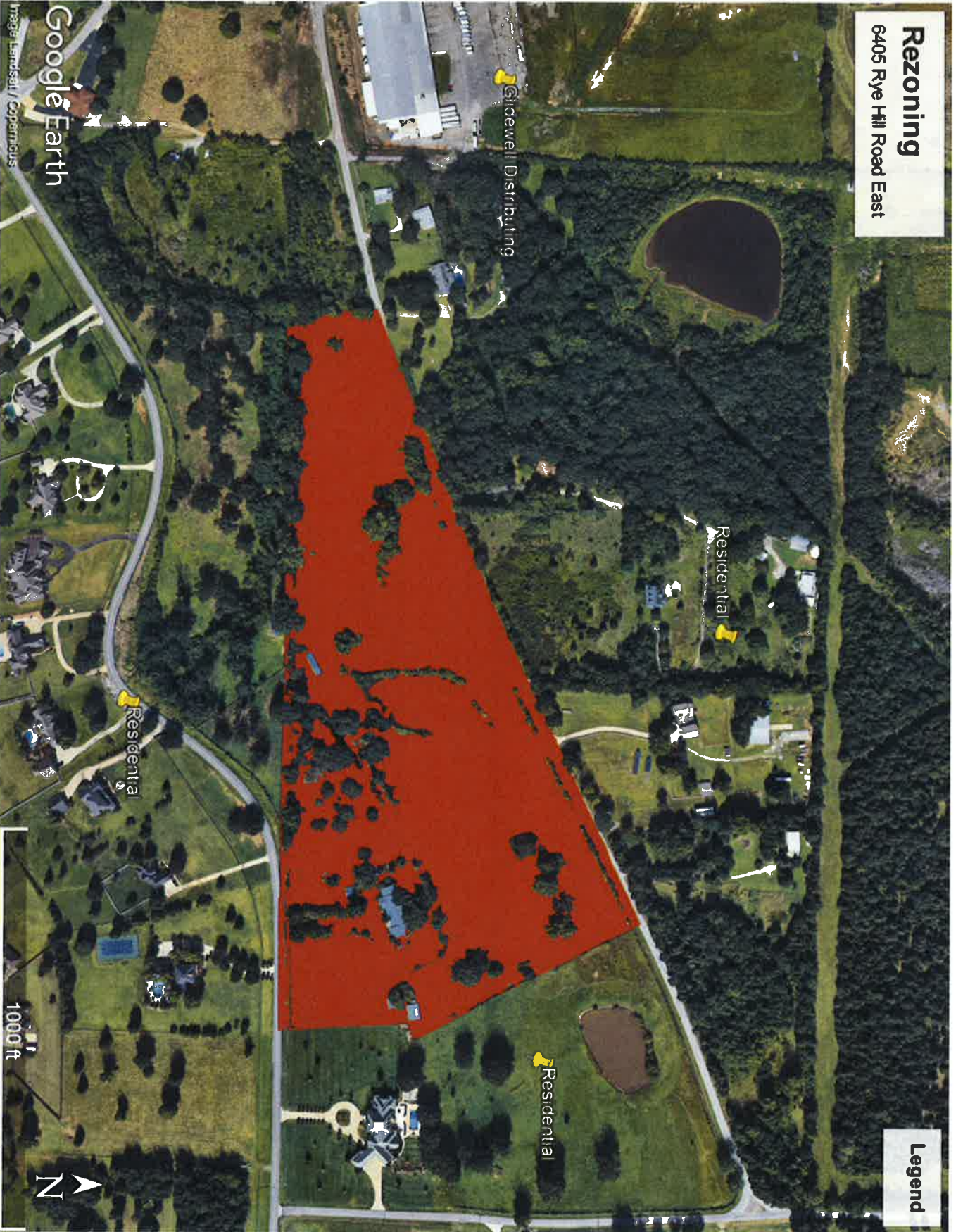
Rezoning #8-5-19: From Not Zoned (NZ) to Residential Single Family Low Density (RS-1) 6405 Rye Hill Road East



Rezoning

6405 Rye Hill Road East

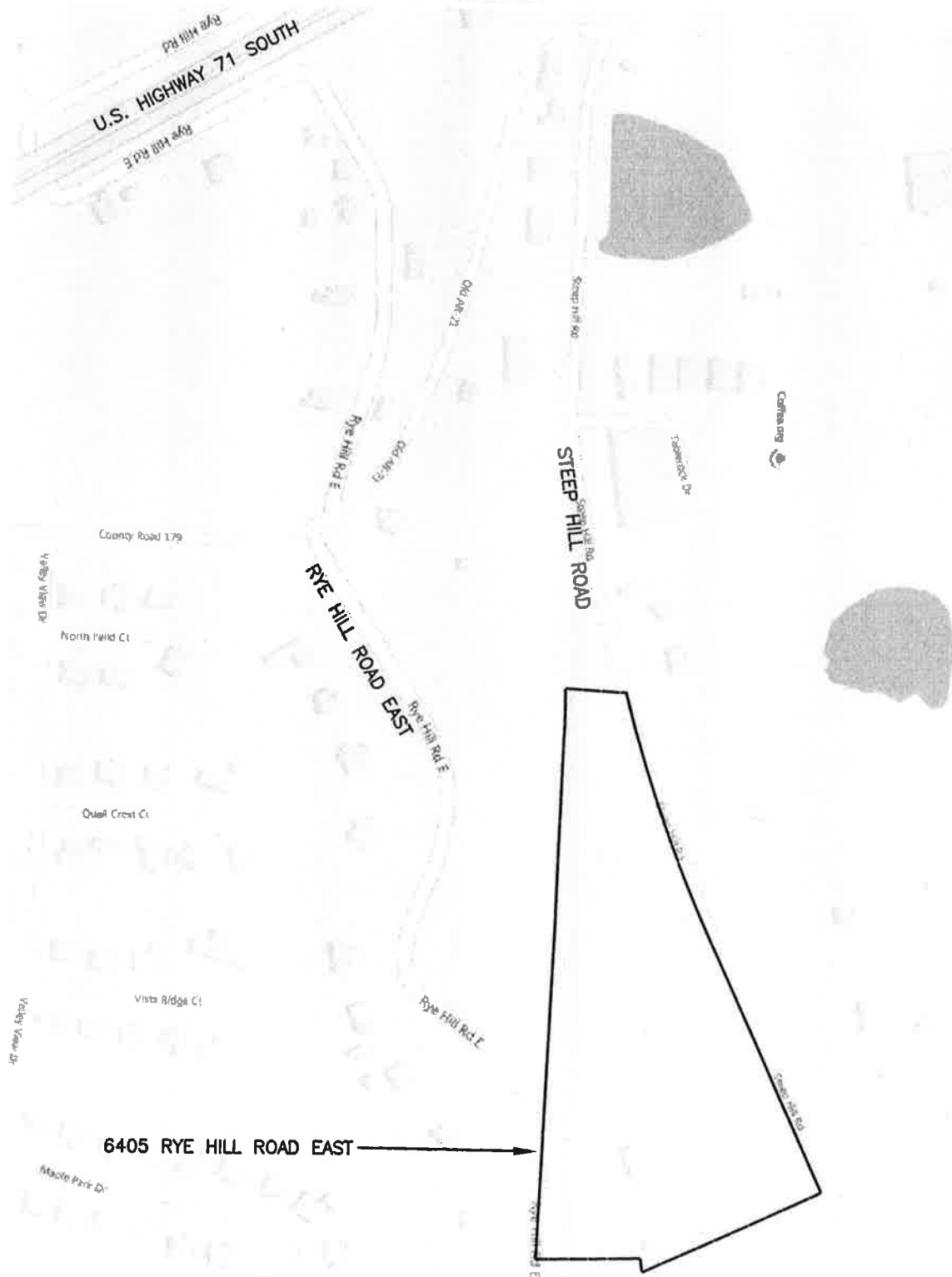
Legend





Brixey Engineering & Land Surveying, Inc.

Land Surveyors - Consulting Engineers
P.O. Box 6180 Ft. Smith, Ark. 72906 (479)646-6394



6405 RYE HILL ROAD EAST

SCALE: 1" = 500'

VICINITY MAP
6405 RYE HILL ROAD EAST



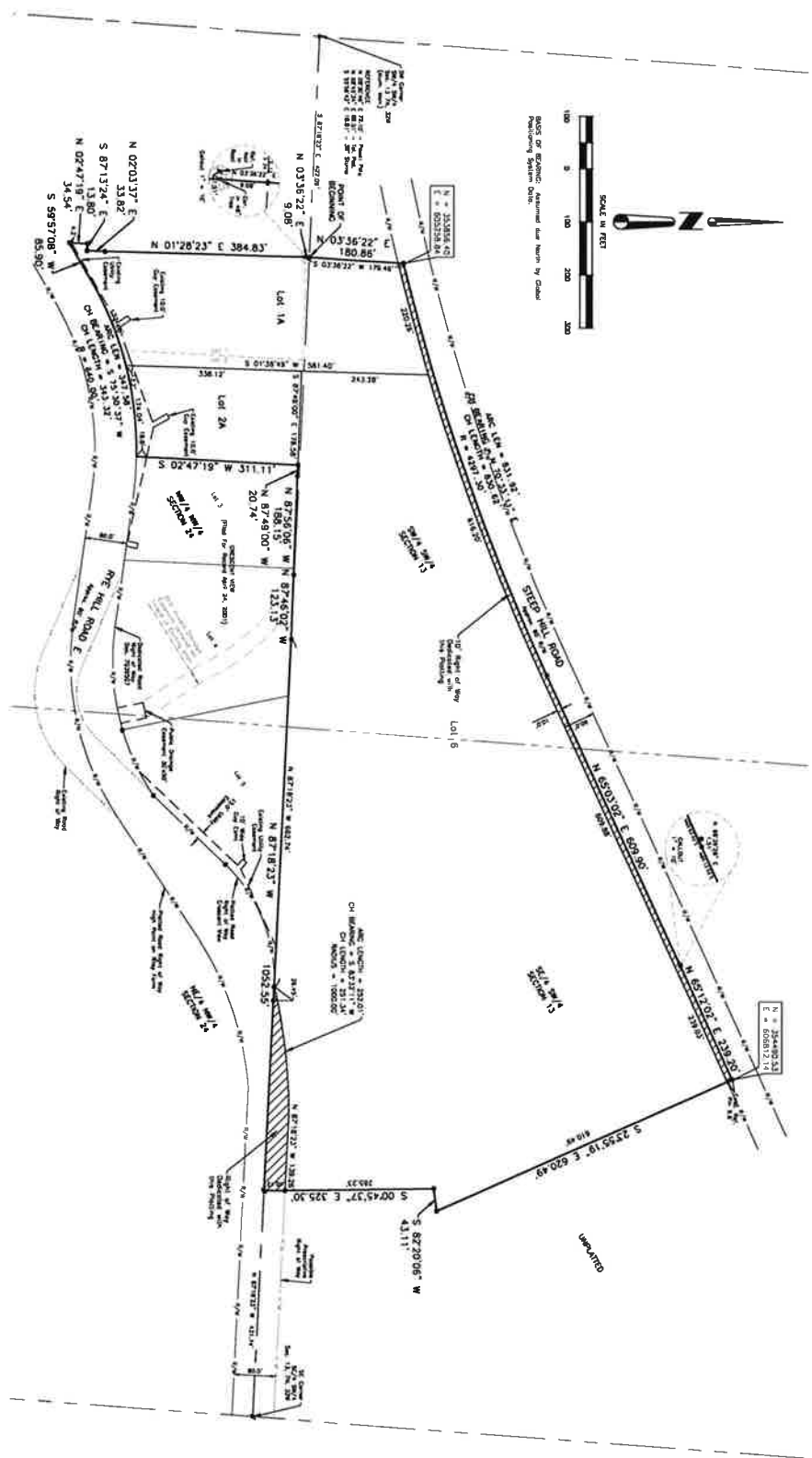
NOTES:
1. This plat prepared for the purpose of recording Lots 1A, 2A and 5
2. Lot 1A, 2A and 5 will be owned by an existing survey number or by
3. as indicated by the survey and the County records.

Survey Engineering & Land Surveying, Inc.
12345 Main St., Little Rock, AR 72201-1234

APRIL 2019

CRESCENT VIEW LOTS 1A, 2A & 5

BEING A REPLAT OF LOTS 1 & 2 OF CRESCENT VIEW AS FILED FOR RECORD
AND PART OF THE W/2 OF THE SW/4 OF SECTION 13,
T4N, R37W, S4E, SEBASTIAN COUNTY, ARKANSAS



SCALE IN FEET
1" = 100'

Owner & Developer
BAXTER HILLCOE BANCORP, LLC
BAXTER HILLCOE BANCORP, LLC
FORT SMITH, AR 72916

CERTIFIED CORRECT:
ROBERT L. SMITH
Professional Engineer
License No. 12345
Mechanical Engineering

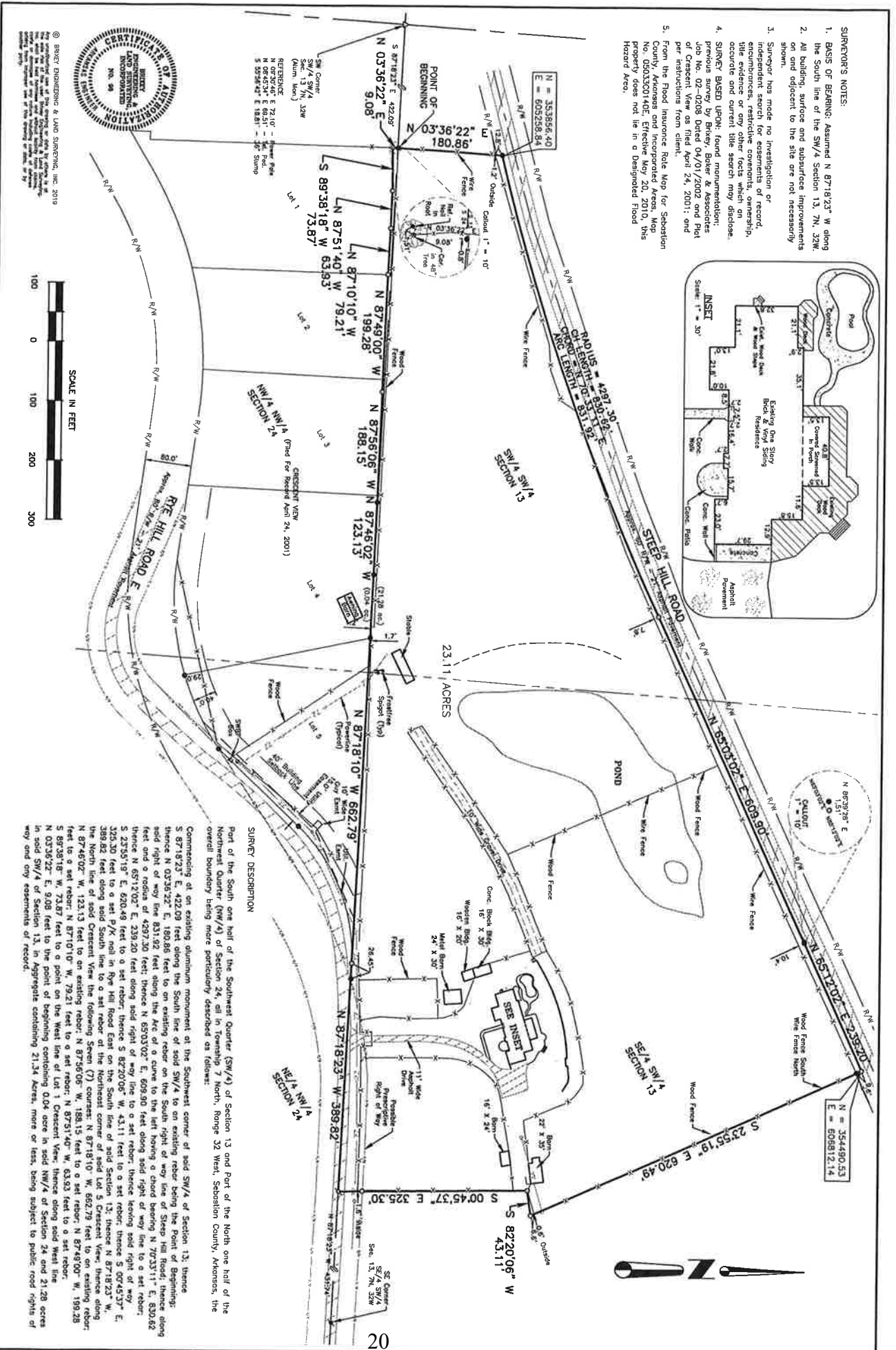
ROBERT L. SMITH
Professional Engineer
License No. 12345
Mechanical Engineering

FILED FOR RECORD

STATE OF ARKANSAS
COUNTY OF SEBASTIAN
Survey to plat and establish boundaries and plat day
Survey Date: _____
By Commission Expires: _____

PLANNING COMMISSION APPROVAL
Chairman: _____
Secretary: _____
Members: _____
Date: _____

- [illegible]



SURVEY DESCRIPTION

Part of the South one half of the Southwest Quarter (SW/4) of Section 13 and Part of the North one half of the Northwest Quarter (NW/4) of Section 24, all in Township 7 North, Range 32 West, Sebastian County, Arkansas, the overall boundary being more particularly described as follows:

Commissioning of an existing aluminum monument at the southwest corner of said NW/4 of Section 13, therefrom S. 87°18'33" E., 422.02 feet along the South line of said NW/4 to an existing rebar being the Point of Beginning; thence N. 03°36'32" E., 180.88 feet to an existing rebar on the South right of way line of State Rd. 119; thence along said right of way line 831.82 feet along the East of a curve to the left having a chord bearing N. 70°33'11" E., 820.60 feet to a set of rebar; thence N. 03°36'32" E., 238.20 feet along said right of way line to a set of rebar; thence N. 65°12'02" E., 238.20 feet along said right of way line to a set of rebar; thence bearing said right of way line S. 23°55'19" E., 620.49 feet to a set of rebar; thence S. 82°20'05" W., 43.11 feet to a set of rebar; thence S. 87°08'52" E., 325.20 feet to a set of P/V; and in Rye Hill Road East on the South line of said Section 13, thence S. 87°18'33" E., 388.82 feet along said South line to a set of rebar at the Northeast corner of said Lot 5, Crescent View, thence along the North line of said Crescent View to the following Survey (7) courses: N. 87°18'10" W., 662.72 feet to an existing rebar; N. 87°46'02" W., 123.13 feet to an existing rebar; N. 87°56'05" W., 158.15 feet to a set of rebar; N. 87°49'00" W., 63.63 feet to a set of rebar; S. 87°10'10" W., 79.21 feet to a set of rebar; N. 87°51'40" W., 63.63 feet to a set of rebar; S. 88°38'22" E., 9.08 feet to the point of beginning containing 0.04 acre in said NW/4 of Section 24 and 21.28 acres in said NW/4 of Section 13, in aggregate containing 21.34 acres, more or less, being subject to public road rights of way and any easements of record.

C:\DEVELOPMENT\9-19-01\B WATER\22-IND-290

PROPERTY SURVEY

LOT 5 CRESCENT VIEW AND
PART OF THE S/2 OF THE SW/4 SECTION 13 &
PART OF THE N/2 OF THE NW/4 SECTION 24,

ALL IN T-7-N, R-32-W
SEBASTIAN COUNTY, ARKANSAS

500-07N-32W-0-13-300-65-0988 / 500-07N-32W-0-24-400-65-0988



CONSULTING ENGINEERS -- LAND SURVEYORS
5223 East Highway 45 P.O. Box 6180 Fort Smith, Arkansas 72806 (479) 848-6384



LEGEND

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Reviews

Form 991

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Summary

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STORM

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Abstract

1110-01

DATE

1977

May 3, 2019

MINUTES OF NEIGHBORHOOD MEETING
RE-ZONING OF 6405 RYE HILL ROAD EAST

At 4:30 PM on Thursday, May 2, 2019, a Neighborhood meeting was held in the offices of Brixey Engineering and Land Surveying, Inc. located at 5223 East Highway 45 to discuss a Petition for Change in Zoning requesting that the subject property be zoned Residential Single Family Low Density. The rezoning requires that a Development Plan be included in the discussion. The proposals were initiated by the owner and developer, Baxter Hillside Ranch, LLC.

Baxter Hillside Ranch, LLC proposes to develop the property by subdividing it into several oversized lots with potential buyers specifying the size that they would like to have.

Six people were in attendance. The City was represented by Wally Bailey of the Planning Department. Ron Brixey of Brixey Engineering presided and represented the developer. Four in attendance were a local residents.

Mr. Brixey presented a general explanation of the proposed development. The local residents asked general questions about lot sizes zoning limitations and the development timetable. These were answered in a general discussion with Mr. Brixey and Mr. Bailey contributing answers. None of the attendees expressed objections to the proposal. There was no further discussion and the meeting adjourned at approximately 5:00 P.M.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 5223 EAST HIGHWAY 45
FORT SMITH, ARKANSAS 72916

Meeting Time & Date 4:30 PM, MAY 2, 2019

Meeting Purpose DISCUSS PROPOSED ZONING AT 6405 RYE HILL RD. EAST

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Leah Lawson	6201 Steephill Rd FSM 72916	479 806 5354
2.	Ken Lawson "	"	479 806 2742
3.	Jane Garcia	6315 Steephill Rd 72916	479 431 8459
4.	Wally Bailey	CFS	479-784-2216
5.	Jim Gildewell	5705 Steephill Rd	479 650 6108
6.	RON BRIVELY		
7.			
8.			
9.			
10.			
11.			

Memo

To: City Planning Commission

From: Planning Staff

Date: April 29, 2019

Re: Variance #12-5-19 - A request by Bobby Aldridge, agent for Jerry Glidewell and the Fort Smith Boys and Girls Club, for Board of Zoning Adjustment consideration of a zoning variance request from 25 feet to 0 feet exterior side yard setback located at 3000 Dodson Avenue

REQUESTED VARIANCE

The variance and conditional use will allow for renovations at Hunts Park. The development will consist of a new turf field, updated light fixtures, and bleachers that continue to encroach the setback. The development will also consist of the renovation of the existing locker room, baseball press box, bathroom, dugouts, baseball concession building, batting cage, and replacement of the fence.

LOT LOCATION AND SIZE

The subject property is on the southwest corner of Old Greenwood Road and Dodson Avenue. The tract contains an area of 9.5 acres with approximately 520 feet of street frontage along Old Greenwood Road and 608 feet of street frontage along Dodson Avenue.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Medium/High Density (RSD-3).

Characteristics of this zone are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached and duplex development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multifamily or commercial districts. RSD-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet

Maximum Height - 35 feet (1+1)

Maximum Density – 6.7 Dwelling Units/Acre

Maximum Lot Coverage - 60%

Minimum Lot Width at Building Line – 60 feet

Minimum Street Frontage – 20 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 25 feet

Side Yard Setback – 7.5 feet

Rear Yard Setback - 10 feet

Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned RSD-3 and is developed as single family residential homes and a duplex.

The area to the east is zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and is developed as Creekmore Park, Boy Scouts of America, and the Girls Club.

The areas to the south and west are zoned RSD-3 and are developed as a cemetery.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Dodson Avenue as a Major Collector and Old Greenwood Road as a Major Arterial.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Park/Open Space/Floodway. This classification is intended to provide for the open space and recreation needs of the region, and protect the regions natural resources, water quality and development investments.

APPLICANT HARDSHIP

The applicant states that the setback variance is needed to help accommodate new ADA accessible bleachers with ramp and maintain a regulation size field and press box. It is also noted that due to the widening of Old Greenwood Road the existing bleachers and press box currently encroach the street side setback and the new bleachers will be at the same approximate location as currently constructed.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Tuesday, May 7th. No surrounding property owners attended the meeting.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS

The variance request is for the bleachers located adjacent to Old Greenwood Road, The existing bleachers encroach the setback and the proposed bleacher location is in the same area but would allow the press box and ramps to further encroach the setback.

STAFF RECOMMENDATIONS

Staff recommends approval of the application contingent upon the following:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
2. The dumpster location and screening methods must be completely screened in accordance to the UDO. The screening is not required, if the dumpster is not visible from any street right of way or adjacent property.
3. All lighting shall comply with Section 27-602-5 of the UDO.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 3000 Dodson Avenue, Existing or Proposed

Zoning Classification RSD - 3, has filed with the Planning Department a written application pursuant to Section 27-337 of the City of Fort Smith's Unified Development Ordinance to secure a variance from the literal provisions of the zoning chapter as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

FROM

TO

_____- _____ Front Yard Setback or Minimum Distance from Right-of-Way

25 - 0 Exterior Side Yard Setback

 - Interior Side Yard Setback

Rear Yard Setback

 - Maximum Height of Structure

  Minimum Distance Between Structures on the Same Lot

 Minimum Lot Area (Square Feet)

 -  Minimum Lot Frontage

 -  Maximum Size of a Sign

Other: _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

YesNo X

Is this variance needed because of previous actions taken by yourself?

 X

Is this variance needed because of previous actions taken by a prior owner?

 X

A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?

X

Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.

X

Is the lot of an odd or unusual shape?

 X

Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or croded area)?

 X

Does the lot contain required easements other than those that might be located on its perimeter?

 X

Is any part of the lot in a flood plain or flood way?

 X

Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?

 X

Is the lot developed with structures in violation of current zoning requirements?

X

Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

Extension of property line setback on Old Greenwood Rd. to accomodate regulation size baseball and football fields. Old Greenwood Road was widened after Hunt's Park was constructed, adversely effecting the property size.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

To accomodate new ADA accessible bleachers and regulation field dimensions, the press box, bleachers, and new ADA access ramp will encroach upon the setback. It should be noted that due to widening of Old Greenwood Road, the existing bleachers and press box currently encroach upon the setback. The new bleachers and press box will be in the same approximate location as currently constructed.

~~The new ADA access ramp is an addition that currently is not present on the existing bleachers.~~

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Old Greenwood Road was previously widened at this location by the City of Fort Smith resulting in a significant reduction and non-compliance with the setback dimension.

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

Bobby ALDRIDGE
Owner or Agent Name (please print)

Owner

or

479-414-1013
Owner or Agent Phone Number

X Bobby Aldridge, P.E.
Agent

PO Box 11988, Fort Smith, AR 72917
Owner or Agent Mailing Address

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

The Northeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 22, Township 8 North, Range 32 West, except a tract described as follows: Beginning at a point 25 feet west and 30 feet south of the Northeast Corner of said Northeast Quarter of the Northwest Quarter of the Northwest Quarter, thence West 50 feet thence south 132'; thence East 50'; thence North 132' to the point of Beginning.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE.

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

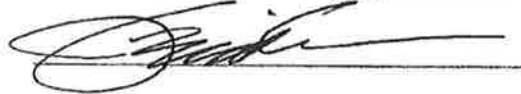
We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize BOBBY ALDRIDGE to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. JERRY GLIWELL



2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

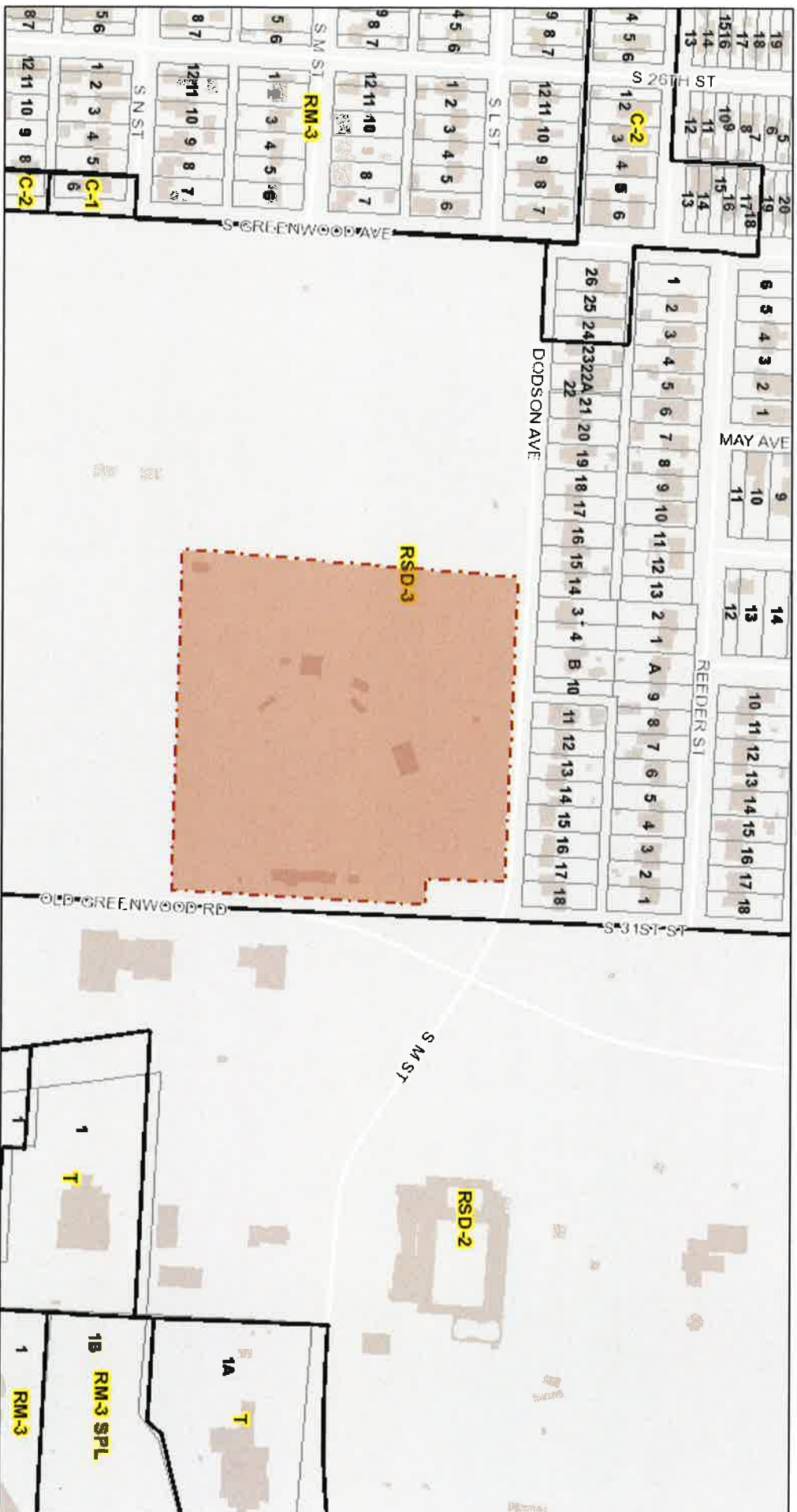
11. _____

12. _____

13. _____

This form is necessary only when the person representing this request does not own all the property.

Variance #12-5-19: From 25' to 0' exterior side yard setback 3000 Dodson Avenue



Variance/Conditional Use
3000 Dodson Avenue



Sheet No.	Scale	Notes
1	1" = 100'	
2	1" = 100'	
3	1" = 100'	
4	1" = 100'	
5	1" = 100'	
6	1" = 100'	
7	1" = 100'	
8	1" = 100'	
9	1" = 100'	
10	1" = 100'	

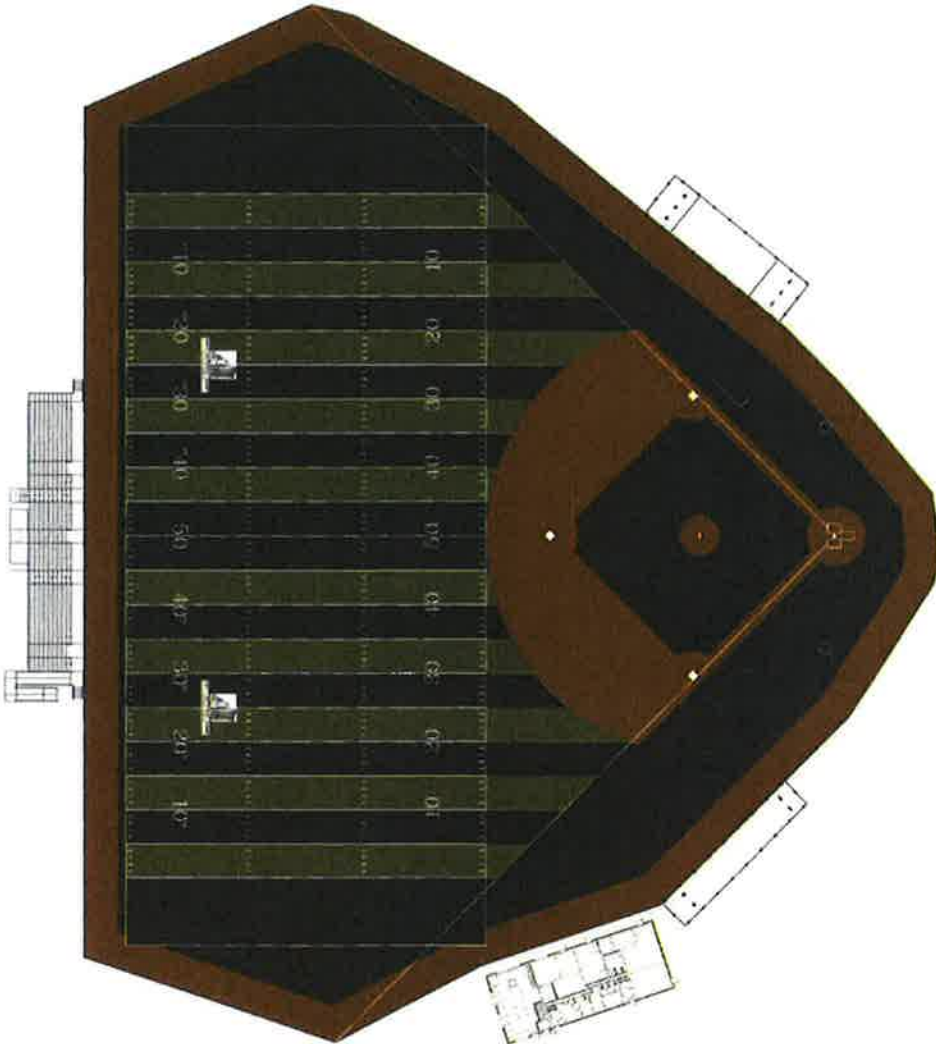
FRONTIER
ENGINEERING, INC.
CIVIL ENGINEERS & CONSULTANTS
P.O. Box 11988 - Fort Smith, AR 72517

Project No.	Sheet No.	Scale
1000000000	1	1" = 100'
1000000000	2	1" = 100'
1000000000	3	1" = 100'
1000000000	4	1" = 100'
1000000000	5	1" = 100'
1000000000	6	1" = 100'
1000000000	7	1" = 100'
1000000000	8	1" = 100'
1000000000	9	1" = 100'
1000000000	10	1" = 100'

HUNTS PARK
Sebastian County, Arkansas

RENDERING
Issued for Bidding

4	4
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Revised	By	Date

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P.O. Box 11988 • FORT SMITH, AR 72917



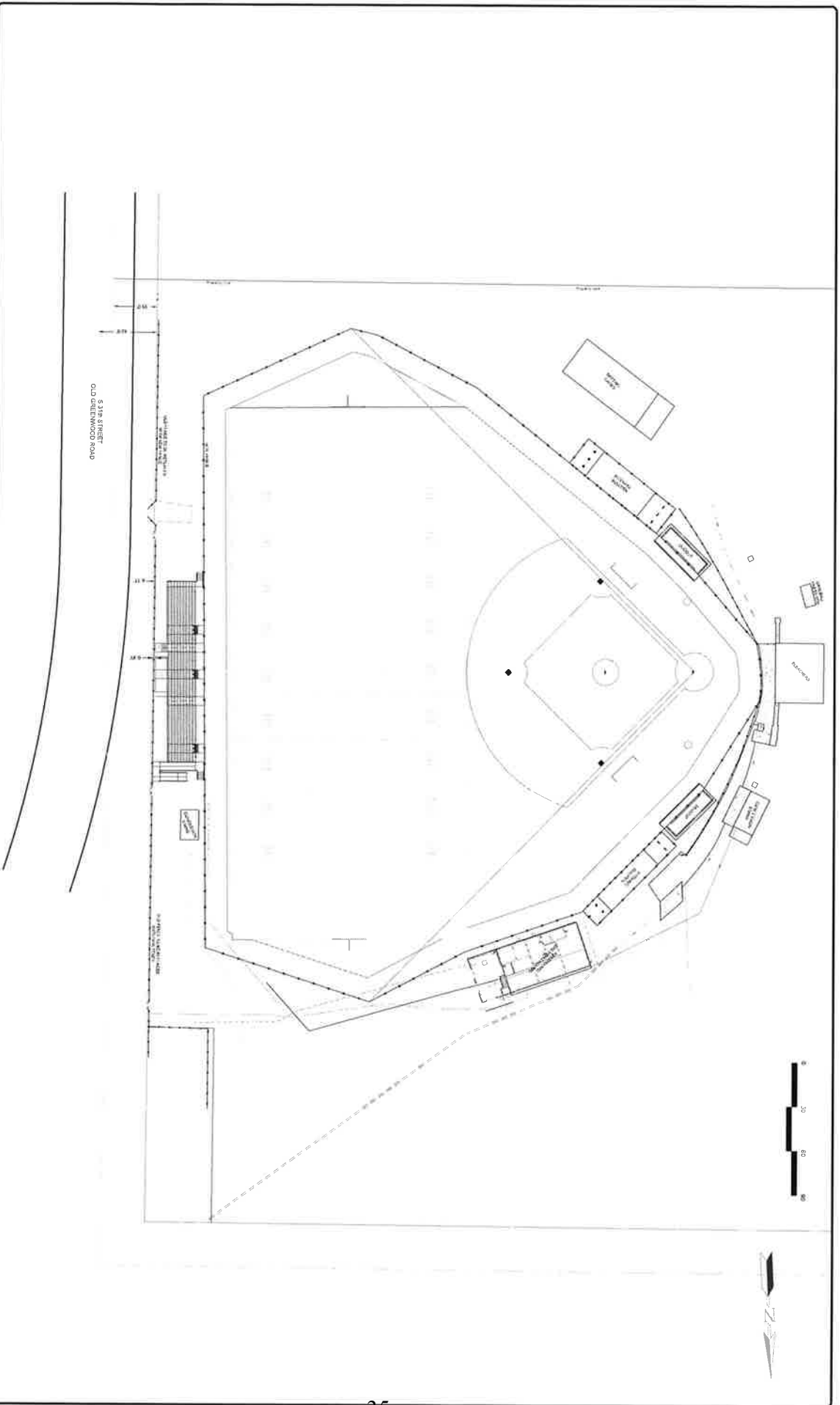
Scale: As Shown
Author: J.B.
Checker: J.B.
Project No: 11988
Sheet No: 11988

Project Name
Project Location
Project Date
Project Status

HUNTS PARK
Sebastian County, Arkansas

SITE PLAN

Sheet No.



Memo

To: City Planning Commission

From: Planning Staff

Date: April 29, 2019

Re: Conditional Use #8-5-19 - A request by Bobby Aldridge, agent for Jerry Glidewell and the Fort Smith Boys and Girls Club, for Planning Commission consideration of a Conditional Use request for improvements to Hunts Park located at 3000 Dodson Avenue

PROPOSED CONDITIONAL USE

The conditional use and variance will allow for renovations at Hunts Park. The development will consist of a new turf field, updated light fixtures, and bleachers that continue to encroach the setback. The development will also consist of the renovation of the existing locker room, baseball press box, bathroom, dugouts, baseball concession building, batting cage, and replacement of the fence.

LOT LOCATION AND SIZE

The subject property is on the southwest corner of Old Greenwood Road and Dodson Avenue. The tract contains an area of 9.5 acres with approximately 520 feet of street frontage along Old Greenwood Road and 608 feet of street frontage along Dodson Avenue.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Medium/High Density (RSD-3).

Characteristics of this zone are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached and duplex development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multifamily or commercial districts. RSD-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 6.7 Dwelling Units/Acre	Maximum Lot Coverage - 60%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 25 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned RSD-3 and is developed as single family residential homes and a duplex.

The area to the east is zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and is developed as Creekmore Park, Boy Scouts of America, and the Girls Club.

The areas to the south and west are zoned RSD-3 and are developed as a cemetery.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An

extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Dodson Avenue as a Major Collector and Old Greenwood Road as a Major Arterial.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Park/Open Space/Floodway. This classification is intended to provide for the open space and recreation needs of the region, and protect the regions natural resources, water quality and development investments.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – All ingress and egress will occur at the existing driveway located on Dodson Avenue.

Drainage – No new drainage information is required.

Right-of-way dedication – No new R.O.W. dedication is required.

Multi-Use bike path – N/A

Landscaping – No new landscaping is required

Screening – No screening shown or provided. The dumpster location and screening methods must be completely screened in accordance to the UDO.

Parking – No new parking is provided. The existing parking lot will be utilized.

Signage – No new signage is shown or approved.

Lighting – Replacement lighting is proposed and shall comply with UDO Section 27-602-5.

Setbacks – The development is seeking a setback variance from the exterior street side setback from 25 feet to 0 feet.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Tuesday, May 7th however no surrounding property owners attended the meeting.

STAFF COMMENTS

The applicant is proposing to remodel Hunts Park to allow for a regulation size baseball field, several other improvements and additional amenities.

STAFF RECOMMENDATIONS

Staff recommends approval of the application contingent upon the following:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
2. Approval of the companion variance application.
3. The dumpster location and screening methods must be completely screened in accordance to the UDO.
4. All lighting shall comply with Section 27-602-5 of the UDO.

Conditional Use # _____

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: FORT SMITH BOYS & GIRLS CLUB

Name of Authorized Agent (if applicable) BOBBY ALDRIDGE, PE

Legal Description of property included in the conditional use request:

Street Address of Property:

3000 DODSON AVENUE, FORT SMITH, AR 72908

Existing Zoning Classification:

RSD - 3

Proposed Zoning Classification (if applicable):

SAME AS ABOVE, NO CHANGES

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

REMODEL OF EXISTING PARK

What amenities are proposed such as landscaping and screening?

NEW FENCING AROUND PROPERTY

BOBBY ALDRIDGE, PE
Owner or Agent Name (please print)

Signed:

PO BOX 11988, FORT SMITH, AR
Owner or Agent Mailing Address 72917

Owner

Or

479-414-1013
Owner or Agent Phone Number

Bobby Aldridge, P.E.
Agent

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

The Northeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 22, Township 8 North, Range 32 West, except a tract described as follows: Beginning at a point 25 feet west and 30 feet south of the Northeast Corner of said Northeast Quarter of the Northwest Quarter of the Northwest Quarter, thence West 50 feet; thence South 132'; thence East 50'; thence North 132' to the Point of Beginning.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE.

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

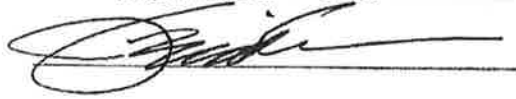
We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize BOBBY ALDRIDGE to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

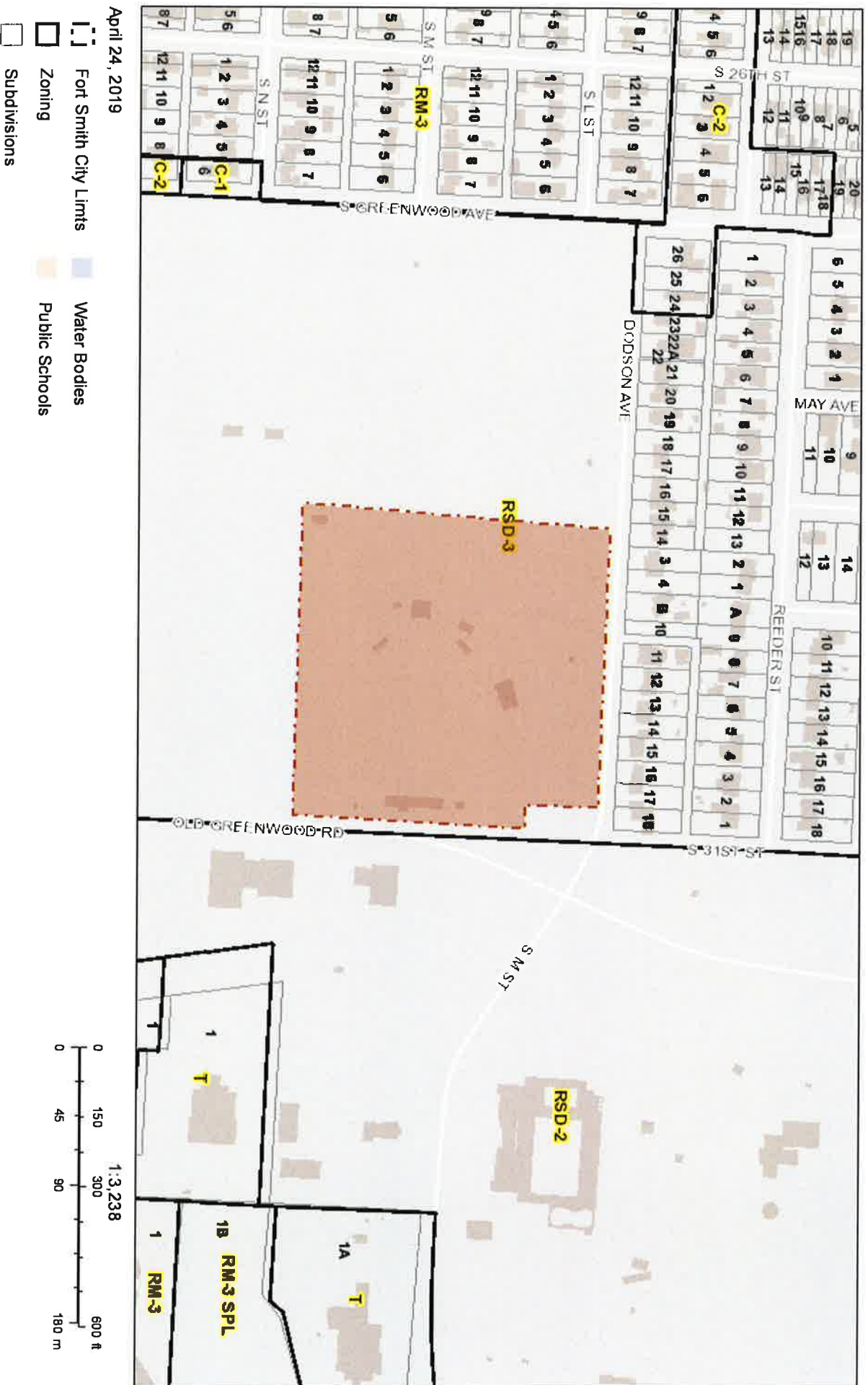
SIGNATURE OF ALL OWNERS.

1. JOEY GLOWEN
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____



This form is necessary only when the person representing this request does not own all the property.

Conditional Use #8-5-19: improvements to an existing park 3000 Dodson Avenue



Variance/Conditional Use
3000 Dodson Avenue

Legend



Revision	By	Date

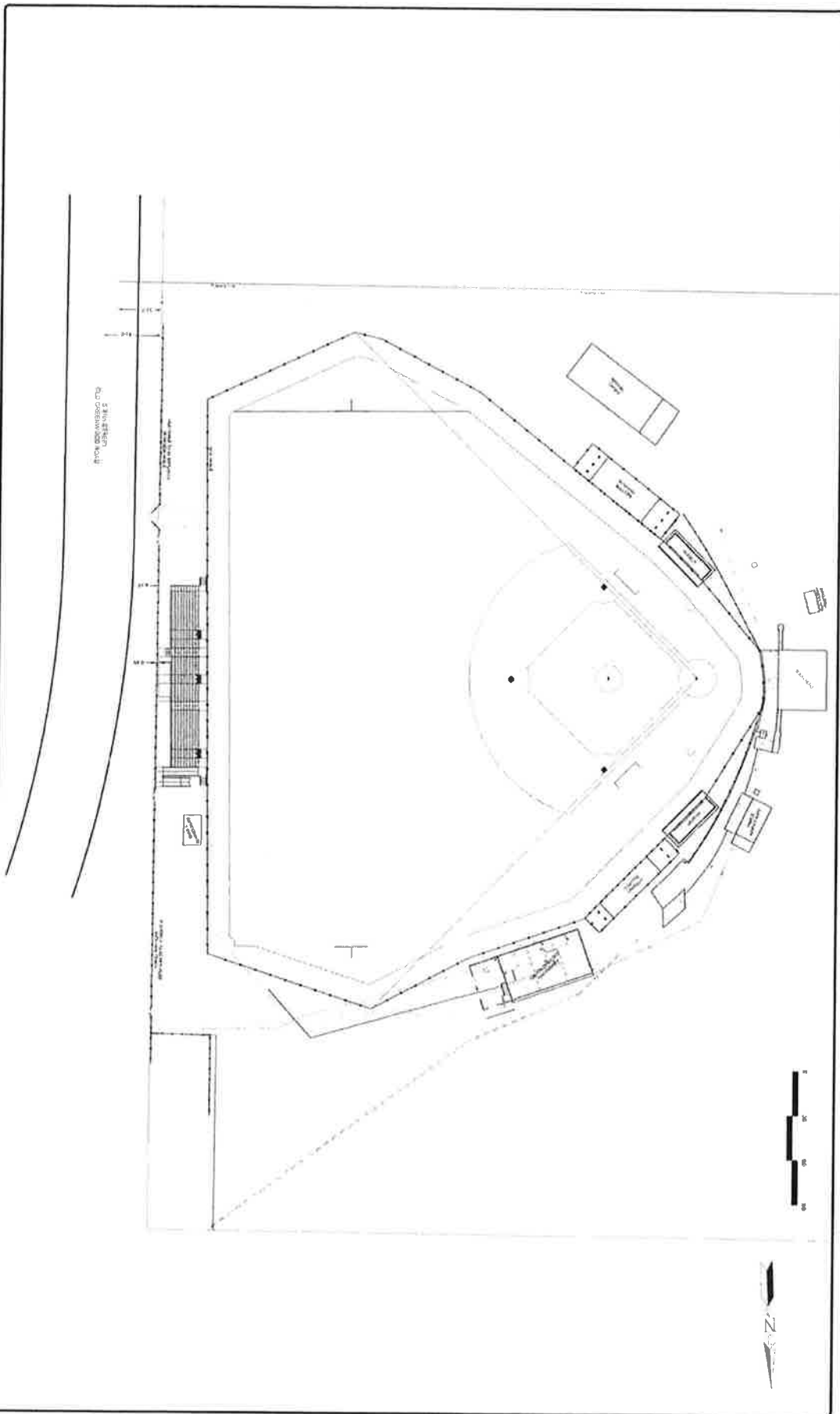
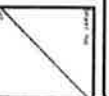
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ENGINEERING, INC.
CIVIL ENGINEERS - CONSULTANTS
P.O. Box 11988 - Fort Smith, AR 72817



Project No.	100-1000
Client	Sebastian County, Arkansas
Location	Hunts Park
Scale	1" = 100'
Date	12/1/1998
Drawn By	
Checked By	
Approved By	

HUNTS PARK

SITE PLAN



Sheet	4	4
Project		
Client		
Location		
Scale		
Author		
Check		
Appr.		
Date		

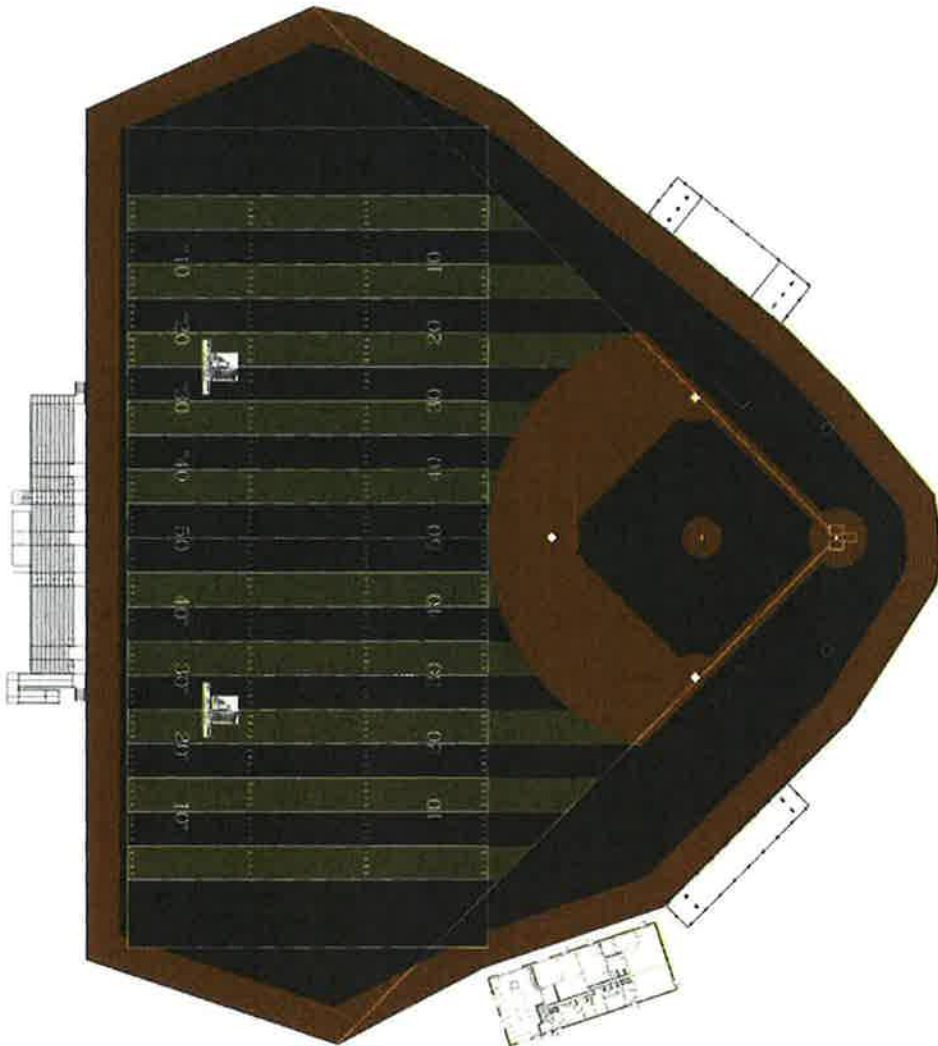
FRONTIER
ENGINEERING, INC.
CIVIL ENGINEERS - CONSULTANTS
P.O. Box 11888 • Fort Smith, AR 72317

Project No.	1000000000
Client	Sebastian County, Arkansas
Location	Hunts Park
Scale	1" = 100'
Author	J. Smith
Check	J. Smith
Appr.	J. Smith
Date	10/11/2011

HUNTS PARK

RENDERING

Issued for Bidding



Memo

To: City Planning Commission

From: Planning Staff

Date: April 29, 2019

Re: Variance #13-5-19 - A request by Bobby Aldridge, agent for Madelyn Catsavis Revocable Family Trust, George Catsavis/First National Bank, for Board of Zoning Adjustment consideration of a zoning variance request from (1) 150' to 44' minimum separation between driveways and from (2) 170' to 28' minimum separation between a driveway and an intersection at 20-28 North 6th Street

REQUESTED VARIANCE

The approval of the requested variance will facilitate the expansion of an existing parking lot.

LOT LOCATION AND SIZE

The subject property is on the east side of North 6th Street between Garrison Avenue and North "A" Street. The tract contains an area of 0.98 acres with approximately 140 feet of street frontage along Garrison Avenue and approximately 302 feet of street frontage along North 6th Street and approximately 140 feet of street frontage along North A Street.

EXISTING ZONING

The existing zoning on this tract is Commercial Downtown (C-6). Characteristics of this zone are as follows:

Purpose:

To provide for the orderly development of the original downtown area of Fort Smith and the areas immediately adjacent to it. The Commercial Downtown (C-6) zoning district establishes guidelines and controls that allow for retail and residential development which is compatible with existing and expanding governmental, financial, professional, cultural, historic, and entertainment facilities. Commercial, governmental, and professional uses that serve the metropolitan area are allowed in this zone.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-6 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, homeless shelter, medical laboratory, bus station, parks, educational facilities, detention facility, police station, community health and welfare clinic, daycare center, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Maximum Lot Size – N/A

Maximum Height – N/A

Maximum Lot Coverage - 100%

Minimum Parcel/Lot Size for Rezoning – Existing District (By Extension) – 42,000 square feet

Minimum Lot Width – N/A

Front Yard Setback – N/A

Side Yard on Street Side of Corner Lot – N/A

Side Yard Setback – N/A

Rear Yard Setback – N/A

SURROUNDING ZONING AND LAND USE

The area surrounding the property is zoned Commercial Downtown (C-6) and developed as commercial.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies both Garrison Avenue and North 6th Street as Major Arterial streets. North “A” Street is classified as a Minor Arterial.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Regional Center. This classification is to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting.

APPLICANT HARDSHIP

The applicant states that the two proposed driveways on North “A” Street will mirror the existing driveways on Garrison Avenue. The applicant further states that the property is too narrow to comply with the UDO driveway locations and separation requirements. As a result, strict enforcement of the UDO would not allow for any driveway accesses to any of the surrounding streets.

NEIGHBORHOOD MEETING

The neighborhood meeting was waived in accordance with UDO Section 27-337-5. In lieu of the neighborhood meeting, the applicant mailed letters with a description of the project to property owners within 300 feet of the site.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS

The City Engineering Department has no objections to the requested variance. Also, on April 16, 2019, the CBID approved the demolition of the building at 20-28 North 6th Street as well as recommending approval of the variance and the companion conditional application.

STAFF RECOMMENDATIONS

Staff recommends approval of the variance with the following:

1. Approval is based on the submitted plans.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 20 - 28 North 6th Street, Existing or Proposed

Zoning Classification C-6, has filed with the Planning Department a written application pursuant to Section 27-337 of the City of Fort Smith's Unified Development Ordinance to secure a variance from the literal provisions of the zoning chapter as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

FROM

TO

_____	-	_____	Front Yard Setback or Minimum Distance from Right-of-Way
_____	-	_____	Exterior Side Yard Setback
_____	-	_____	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
_____	-	_____	Maximum Size of a Sign
<u>150</u>	-	<u>44</u>	Other: <u>minimum separation between driveways</u>
<u>170</u>	-	<u>42</u>	<u>minimum separation between a driveway and an intersection centerline</u> <u>(28' to nearest intersection R/W)</u>

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

- I. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u> ✓ </u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u> ✓ </u>	Is this variance needed because of previous actions taken by a prior owner?
<u> ✓ </u>	<u> </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u> ✓ </u>	<u> </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u> ✓ </u>	Is the lot of an odd or unusual shape?
<u> </u>	<u> ✓ </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> </u>	<u> ✓ </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u> </u>	<u> ✓ </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u> ✓ </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u> ✓ </u>	Is the lot developed with structures in violation of current zoning requirements?
<u> ✓ </u>	<u> </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

~~The property is approximately 140' wide at the intersection of North 6th Street, a Major Arterial street,~~
~~and North A Street, a Minor Arterial street. We propose two driveways to North A Street, to mirror the~~
~~existing driveways to Garrison Ave. The property is too narrow to comply with UDO driveway locations~~
~~and separation requirements.~~

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

~~Strict enforcement of the UDO would not allow for any driveway accesses to any of the surrounding~~
~~streets.~~

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

~~The property is at the intersection of Garrison Ave. and North 6th Street, both Major Arterial Streets, and~~
~~the intersection of North 6th Street and North A Street, a Major and Minor Arterial Street, respectively.~~

~~The UDO requires driveways at the intersection of Major and Minor Arterials be 170' from the Intersection.~~
~~Additionally, the UDO requires that driveways to a Minor Arterial be separated 150'. The property width~~
~~along North A Street is approximately 140'.~~

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

Lots 1, 2, 3, 4, 5 and 6, Block 25 of the Original City of Fort Smith

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

Not Applicable

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

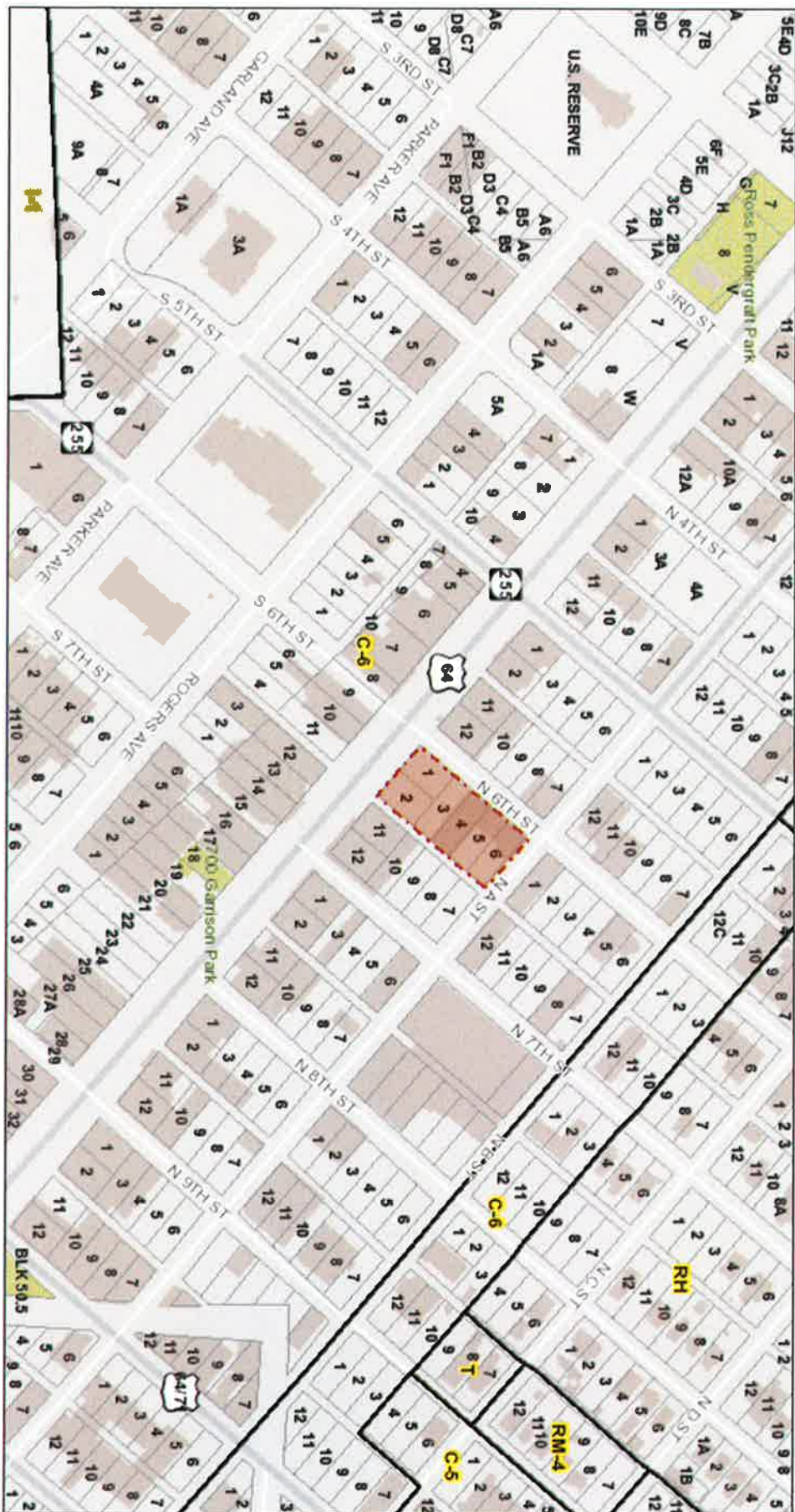
Bobby Aldridge, P.E.
~~Owner~~ or Agent Name (*please print*)

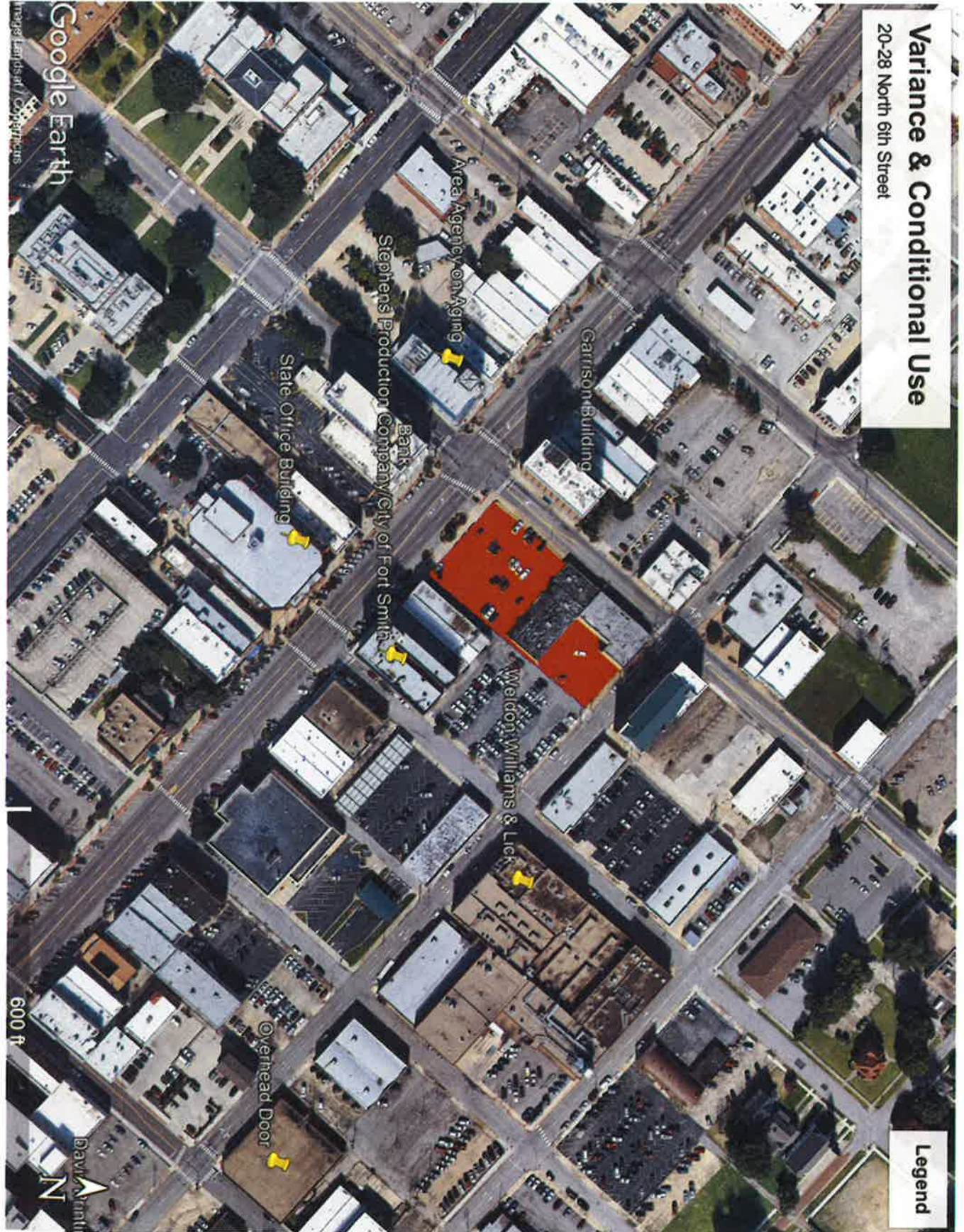
479-414-1013
~~Owner~~ or Agent Phone Number
P.O. Bo 11988

Fort Smith AR 72917
~~Owner~~ or Agent Mailing Address

Owner
or
Bobby Aldridge, P.E.
Agent

Variance #13-5-19: From 150' to 44' minimum separation between driveways and from 170' to 28' minimum separation between a driveway and an intersection at 20-28 North 6th Street









PRINCESTON AMERICAN ELM



ANNUAL COLOR



ARMY/UNIT MAPLE



CLARKIA



DRIFT ROSES



BOXWOODS



GARRISON AVENUE

DRIFT ROSES & TREE FORM HYDRANGEA

LANDSCAPING TUBS

ANNUAL COLOR

KALEIDOSCOPE ABELIA

ANNUAL COLOR

DECOMPOSED GRANITE

DWARF BOX WOODS

BOULDER SEATING

TAYLOR JUNIPER

BERM WITH PERENNIAL INFILL ART INSTALLATION

BERM WITH PERENNIAL INFILL

SINGLE TRUNK CRAPPE MYRTLE

ANNUAL COLOR

ANNUAL COLOR

ANNUAL COLOR

AMAZING SCALE

A STREET

TAYLOR JUNIPER

CLARKIA

DRIFT ROSES

ANNUAL COLOR

ANNUAL COLOR

ANNUAL COLOR

ANNUAL COLOR

KALEIDOSCOPE ABELIA



LIGHT BLUE HYDRANGEA TREE



ORNAMENTAL GRASSES



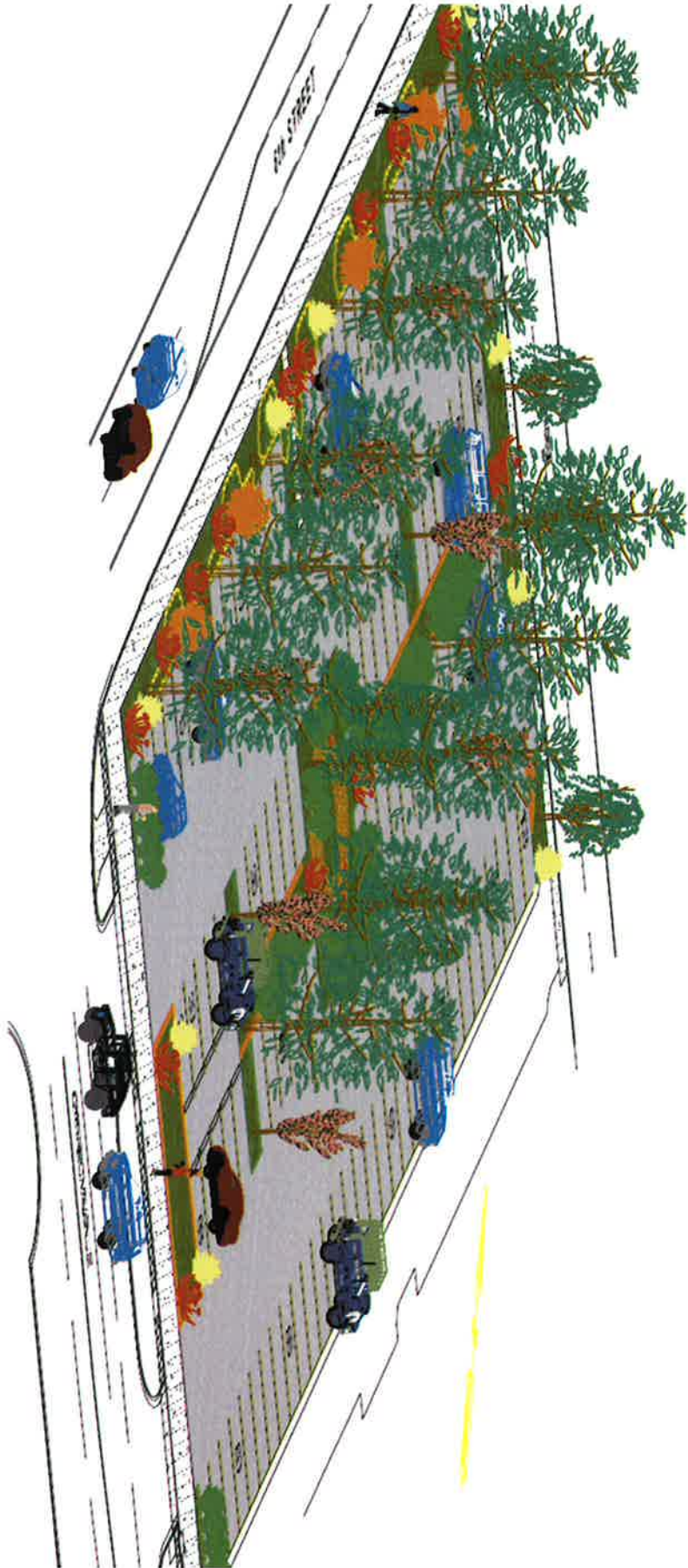
PERENNIAL COLOR



SINGLE TRUNK CRAPPE MYRTLE



Proposed Landscaping Perspective
View Looking Easterly



Memo

To: City Planning Commission

From: Planning Staff

Date: May 7, 2019

Re: Conditional Use #9-5-19 - A request by Bobby Aldridge, agent for Madelyn Catsavis Revocable Family Trust and George Catsavis/First National Bank, for Planning Commission consideration of a Conditional Use request to expand a Commercial Parking Lot at 20-28 North 6th Street

PROPOSED CONDITIONAL USE

The approval of the requested Conditional Use will allow for the expansion of an existing parking lot. The parking lot expansion will occur as a result of the future demolition of the former Broadway Grill Restaurant building and the adjoining Carney Building along North 6th Street.

LOT LOCATION AND SIZE

The subject property is on the east side of North 6th Street between Garrison Avenue and North "A" Street. The tract contains an area of 0.98 acres with approximately 140 feet of street frontage along Garrison Avenue and approximately 302 feet of street frontage along North 6th Street and approximately 140 feet of street frontage along North A Street.

EXISTING ZONING

The existing zoning on this tract is Commercial Downtown (C-6). Characteristics of this zone are as follows:

Purpose:

To provide for the orderly development of the original downtown area of Fort Smith and the areas immediately adjacent to it. The Commercial Downtown (C-6) zoning district establishes guidelines and controls that allow for retail and residential development which is compatible with existing and expanding governmental, financial, professional, cultural, historic, and entertainment facilities. Commercial, governmental, and professional uses that serve the metropolitan area are allowed in this zone.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-6 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, homeless shelter, medical laboratory, bus station, parks, educational facilities, detention facility, police station, community health and welfare clinic, daycare center, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Maximum Lot Size – N/A

Maximum Height – N/A

Maximum Lot Coverage - 100%

Minimum Parcel/Lot Size for Rezoning – Existing District (By Extension) – 42,000 square feet

Minimum Lot Width – N/A

Front Yard Setback – N/A

Side Yard on Street Side of Corner Lot – N/A

Side Yard Setback – N/A

Rear Yard Setback – N/A

SURROUNDING ZONING AND LAND USE

The area surrounding the property is zoned Commercial Downtown (C-6) and developed as commercial.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies both Garrison Avenue and North 6th Street as Major Arterial streets. North “A” Street is classified as a Minor Arterial.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Regional Center. This classification is to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – There are two existing driveways along Garrison Avenue. Two new driveways are proposed for North “A” Street.

Easement/utilities – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

Landscaping – Landscaping is proposed along the north, west and south sides of the property, in the center of the entire parking lot, and on both sides of the proposed new driveway on North “A” Street. The landscaping will consist of trees, shrubbery and berms adjacent to North 6th Street.

Other features proposed include an art installation in the center of the parking lot and an area adjacent to Garrison Avenue that can be used for periodic events and entertainment.

Parking – There are currently 59 parking spaces provided. There will be a total of 108 parking spaces when complete.

Signage – No signage is noted on the plans.

Lighting – No lighting is noted on the plans.

NEIGHBORHOOD MEETING

The neighborhood meeting was waived in accordance with UDO Section 27-337-5. In lieu of the neighborhood meeting, the applicant mailed letters with a description of the project to property owners within 300 feet of the site.

STAFF COMMENTS

On April 16, 2019, the CBID approved the demolition of the building at 20-28 North 6th Street as well as recommending approval of the conditional use and companion variance application.

STAFF RECOMMENDATIONS

Staff recommends approval of the application with the following comments:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
2. Board of Zoning Adjustment approval of the companion variance application.
3. The landscaping shall be irrigated with an automatic irrigation system or the applicant shall supply the City with a maintenance plan.
4. Specific plant species, quantity and sizes must be submitted to the Planning Department for review with the building permit submittal.
5. Any future exterior lighting shall comply with the UDO Commercial and Outdoor Lighting regulations.
6. If any signage is proposed, the applicant shall submit a sign permit application to the Planning department for review and approval and in compliance with CBID signage regulations.

Conditional Use # _____

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: George Catsavis; Catsavis, Madelyne Revocable Family Trust

Name of Authorized Agent (if applicable) Bobby Aldridge, P.E.

Legal Description of property included in the conditional use request:

Lots 1, 2, 3, 4, 5 and 6, Block 25 of the Original City of Fort Smith

Street Address of Property:

20 - 28 North 6th Street

Existing Zoning Classification:

C-6

Proposed Zoning Classification (if applicable):

C-6

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

Demolition of existing building and replacement with expansion of existing parking area. All property area will be improved to provide 108 parking spaces, landscaping and center plaza area.

What amenities are proposed such as landscaping and screening?

Landscaping along the perimeter to include Garrison Ave., North 6th Street, and North A Streets and interior landscaping to include trees, shrubs, flowers, center plaza area, and art installation. Exceeds the minimum requirements of the UDO.

Bobby Aldridge, P.E.

~~Owner or Agent Name (please print)~~

P.O. Box 11988 Fort Smith AR 72917

~~Owner or Agent Mailing Address~~

479-414-1013

~~Owner or Agent Phone Number~~

Signed:

Owner

Or

Bobby Aldridge, P.E.
Agent

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

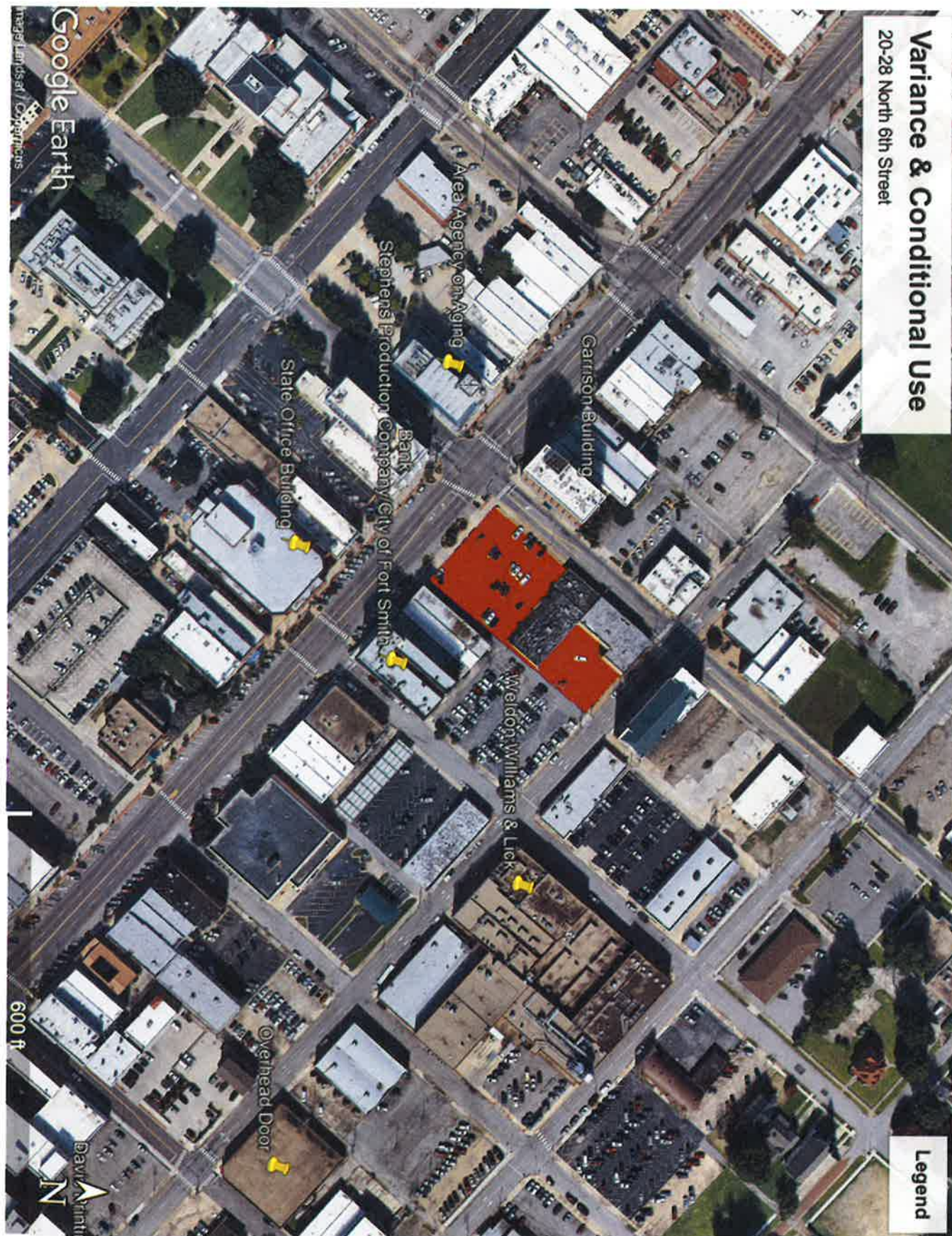
SUBJECT: Legal Description of Property

Lots 1, 2, 3, 4, 5 and 6, Block 25 of the Original City of Fort Smith

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

Not Applicable

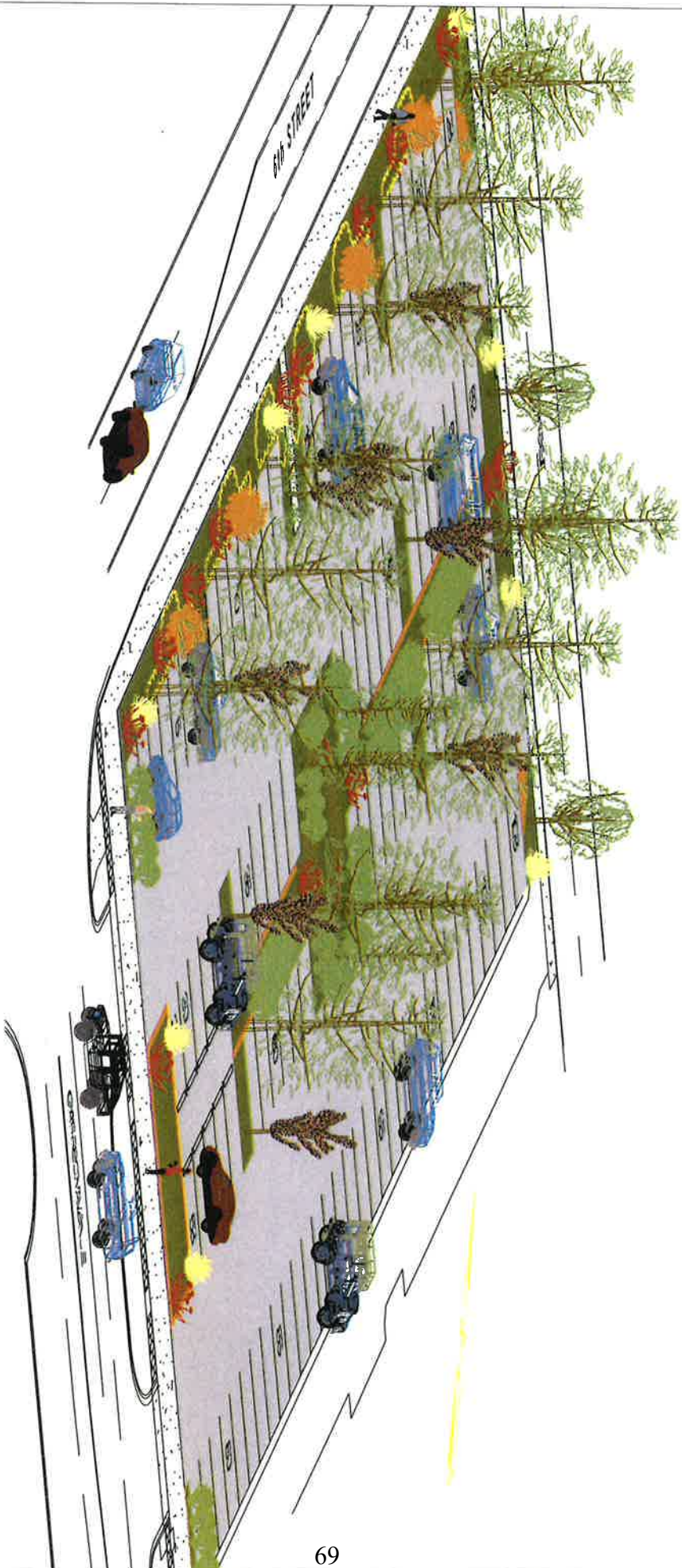
City of Fort Smith GIS
Copyright 2013. City of Fort Smith



Variance & Conditional Use
20-28 North 6th Street

Legend

Proposed Landscaping Perspective
View Looking Easterly



6th STREET & GARRISON PARKING



6th STREET & GARRISON PARKING



PRINCELTON AMERICAN ELM



ANNUAL COLOR



ARMISTONG MAPLE



CLARKIA



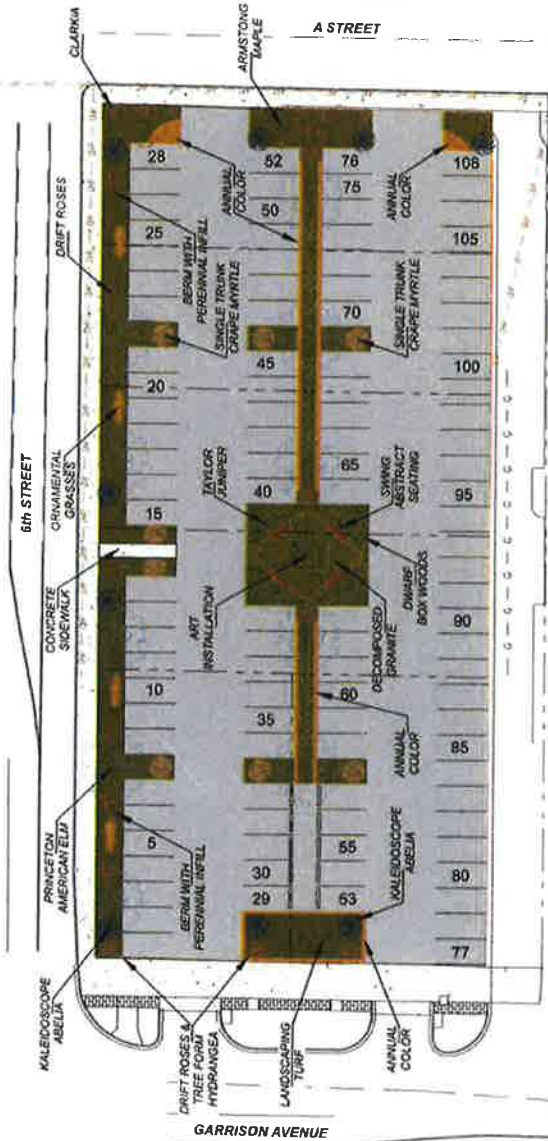
DRIFT ROSES



BOXWOODS



GARRISON AVENUE



KALEIDOSCOPE ABELIA



LIMITED HYDRANGEA TREE



DECOMPOSED GRANITE



PERENNIAL COUPE



SINGLE TRUNK COUPE MYRTLE



6th STREET & GARRISON PARKING



6th STREET & GARRISON PARKING

FRONTIER
ENGINEERING, INC.
CIVIL ENGINEERS - CONSULTANTS
P.O. Box 11986 • FORT SMITH, AR 72917

Memo

To: City Planning Commission

From: Planning Staff

Date: April 30, 2019

Re: Variance #14-5-19 - A request by Ron Brixey, agent for Fuller Realty/Fort Smith Airport Commission, for Board of Zoning Adjustment consideration of a zoning variance request from: 1) 13' to 1.8' minimum height at the lowest portion of the face surface of the sign; and 2) from the Outdoor Advertising Sign Bank regulations at 5199 Old Greenwood Road

REQUESTED VARIANCE

The approval of this variance request will allow for the addition of 115 square feet of sign face onto the existing sign. The existing sign is 10' x 20' or 200 square feet. *Note: The maximum permitted sign size is 300 square feet. The permitted sign size is the cumulative of both signs shown in the picture below.*



LOT LOCATION AND SIZE

The subject property is on the east side of Old Greenwood Road at the intersection with Savannah Street.

EXISTING ZONING

The existing zoning on this tract is Industrial Light (I-1). Characteristics of this zone are as follows:

Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 20,000 square feet

Maximum Height - 45 feet (1+1)

Maximum Lot Coverage - 75%

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres

Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

SURROUNDING ZONING AND LAND USE

The area to north is zoned Industrial Light and developed as offices.

The areas to the east and south is zoned Industrial Light and developed as the Fort Smith Regional Airport.

The area to the west is zoned Industrial Light and is undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Old Greenwood Road as Major Arterial and Savannah Street as a Local Road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Institutional. This classification is to provide for needed community services of both a public and quasi-public nature.

APPLICANT HARDSHIP

The proposed signage is to serve Fuller Realty which is located at 5101 Old Greenwood Road across Savannah Street from the sign location. The applicant states that several businesses are located in this building which makes the existing sign too “busy” for people in passing vehicles to read.

NEIGHBORHOOD MEETING

The neighborhood meeting was waived in accordance with UDO Section 27-337-5.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS

The existing sign was installed prior to adoption of the existing Outdoor Advertising Sign Regulations. The existing sign has approximately 7.8 feet clearance from the ground. Therefore, it does not comply with the Outdoor Advertising sign requirement that signs must have a 13’minium height at the lowest portion of the face surface of the sign. The variance request will reduce the lowest portion sign to 1.8 feet from the ground. Based on the location of the sign, it does not appear that it would create a site issue with the Old Greenwood Road and Savannah Street intersection.

When the Outdoor Advertising Sign section of the code was developed in 2013 there was considerable interest to control the number of outdoor advertising signs. The purposes of the Sign Bank permitting process are to ensure that the quantity and size of outdoor advertising signs in the City of Fort Smith and its extra-territorial jurisdiction area do not increase and to ensure

proper placement of replaced or relocated outdoor advertising signs. The sign bank section of the code is enclosed with this report.

Approval of the request to waive the sign bank requirements will allow the applicant to increase the size of the sign without providing evidence that an adequate sign bank credit belongs to the sign owner. The Planning Department records do not indicate any sign bank credit exists for the sign owner. The applicant also has the option of negotiating with an owner of an existing outdoor advertising sign credit who may transfer and assign a credit to the applicant.

It is also noted that the applicant stated in their hardship statement that a variance would be required to increase the existing monument sign on Old Greenwood Road where Fuller Realty is located. The property is zoned Industrial-1. The sign regulations for Industrial zones allow free-standing business signs to have one square foot in area per linear feet of property frontage. The frontage on Old Greenwood Road is approximately 232 feet and the existing monument sign is approximately 82 s.f., so the signage along that property's frontage could be increased by 150 square feet. The proposed addition to the off premise outdoor advertising sign is about 115 square feet.

Staff believes approval of the sign bank variance is not justified and an adequate hardship has not been substantiated that would warrant a waiver of the sign bank requirements. Approval of the variance will allow the sign bank to be increased. Also, approval of the variance could encourage others to apply for variances from the sign bank requirements, which would lessen the effectiveness and the intent of the regulations to manage the number and size of Outdoor Advertising signs.

STAFF RECOMMENDATIONS

Staff recommends denial of the request.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 5600 Airport Boulevard, Existing or Proposed

Zoning Classification I-1 (Industrial Light), has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

<u>FROM</u>	-	<u>TO</u>	
_____	-	_____	Front Yard Setback or Minimum Distance from Right-of-Way
_____	-	_____	Exterior Side Yard Setback
_____	-	_____	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
<u>13 feet</u>	-	<u>1.8 feet</u>	XXXXXXXXXXXXXXXXXX 27-704-4(i) Minimum height of a sign
<u>0 sq.ft.</u>	-	<u>115 sq.ft</u>	Other: <u>27-704 k(2) a thru e - Sign Bank (no increase in size of signs)</u>

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

Ron Brixey

Owner or Agent Name *(please print)*

Owner

or

479-646-6394 ext. 1

Owner or Agent Phone Number

Agent

5223 E. Hwy. 54, Fort Smith, Ar.

Owner or Agent Mailing Address

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by a prior owner?
<u> X </u>	<u> </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u> </u>	<u> X </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u> X </u>	Is the lot of an odd or unusual shape?
<u> </u>	<u> X </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> </u>	<u> X </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u> </u>	<u> X </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u> X </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u> X </u>	Is the lot developed with structures in violation of current zoning requirements?
<u> </u>	<u> X </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

Not Applicable

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

The proposed signage is to serve Fuller Reality which is located at 5101 Old Greenwood Road across Savannah Street from the sign location. Several businesses are located in this building which makes the existing sign too "busy" for people in passing vehicles to read. Adding on to the sign in front of the building would require a similar variance and the results would be less effective.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Not Applicable

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

Sebastian County Tax Parcel No. 18883-0000-02097-00
(Fort Smith Municipal Airport)

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

None



Ron Brixey - Agent

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Ron Brixey to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Airport Commission of the City of Fort Smith

Michael D. Griffin
Michael Griffin - Airport Director

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

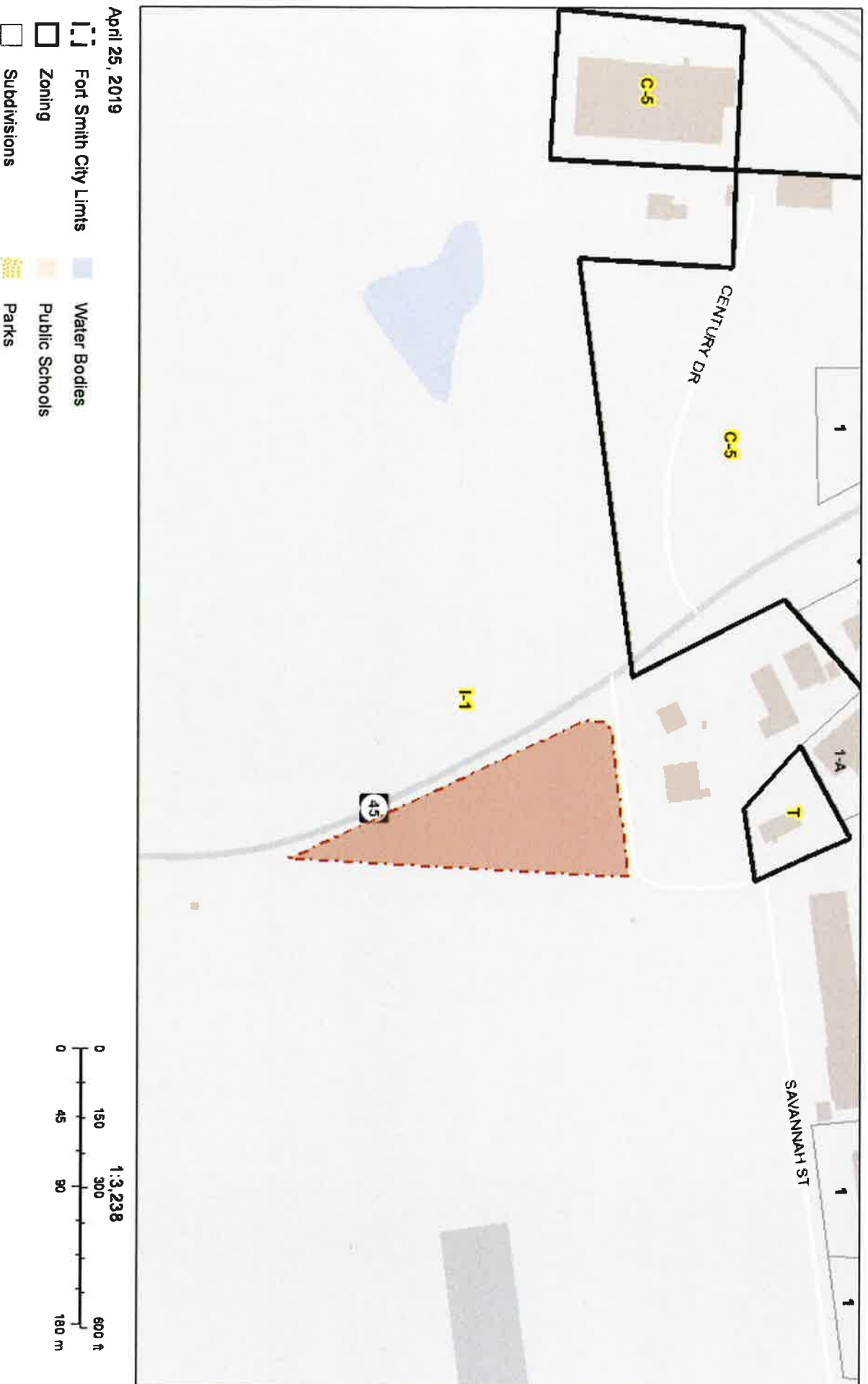
11. _____

12. _____

13. _____

This form is necessary only when the person representing this request does not own all the property.

Variance #14-5-19: From 13' to 1.8' minimum height at the lowest portion of the sign and from the Sign Bank regulations at 5199 Old Greenwood Road







BRIXEY ENGINEERING & LAND SURVEYING, INC.
CONSULTING ENGINEERS - LAND SURVEYORS
5223 East Highway 45 P.O. Box 6180 Fort Smith, Arkansas 72906 (479) 546-6394

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SITE PLAN

PROPOSED SIGNAGE
5600 AIRPORT BLVD.
FORT SMITH, ARKANSAS

Prepared For: Fort Smith Municipal Airport

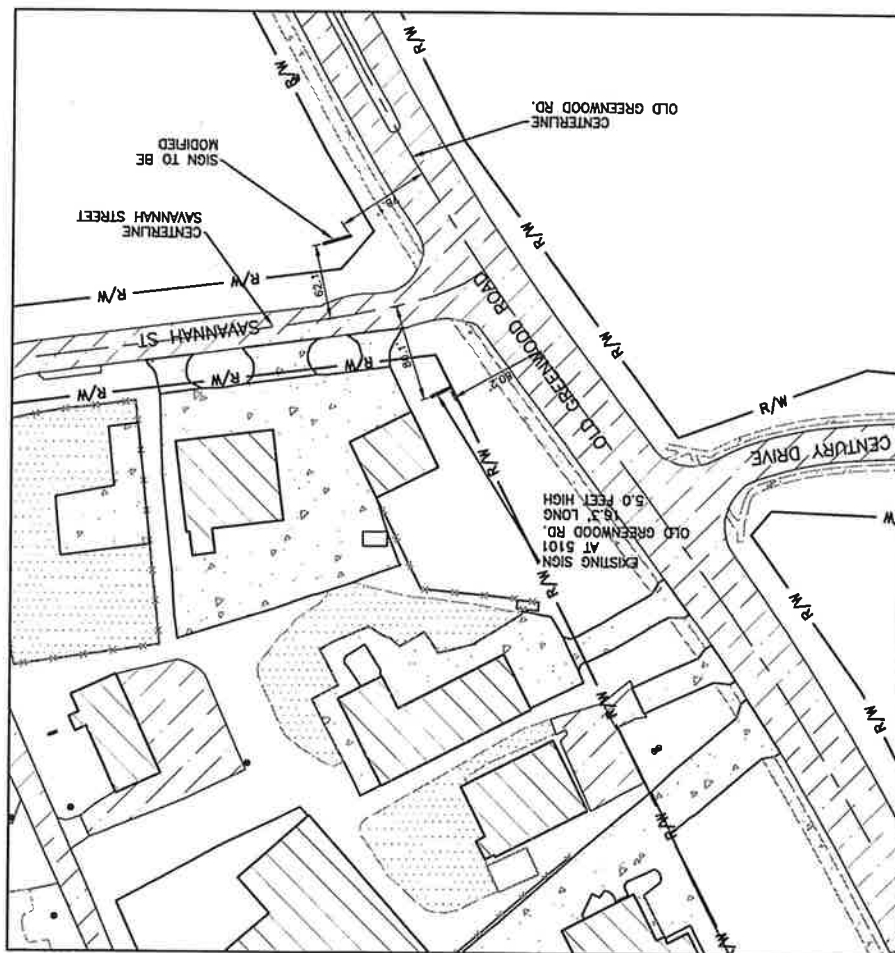
Date:	
Drawn By:	
Approved:	
Job No.	
Filed	

I, Ronald N. Brixey, a registered Professional Engineer in and for the State of Arkansas, do hereby certify that this is a true and correct plot to the best of my knowledge of a proposed signage modification located at the intersection of Old Greenwood Road and Savannah Street in Fort Smith, Arkansas. No survey was performed in the preparation of this plot. All structures shown are as depicted on the City of Fort Smith aerial topography of 2013 and visually verified. Rights of way were scaled into the plot from ARDOT construction plans for the widening of Highway 54 (Old Greenwood Road).

CERTIFICATION

- COMMERCIAL BUILDING
- GRAVEL PARKING
- ASPHALT STREET
- CONCRETE PARKING
- SIDEWALK
- RIGHT OF WAY

LEGEND











Luther Stem

POOLS & SPAS



5011 OLD GREENWOOD STREET

230 in

FULLER REALTY

5101 Old Greenwood Rd - Ste 108

www.fullersrealty.com

60" in

**NEW AND
CUSTOM HOMES**

**LIST YOUR HOME
WITH US TODAY!
WE BUY HOMES**

- (2) Sign Bank. There is hereby created an outdoor advertising sign credit bank ("Sign Bank") whereby the city planning department shall maintain a credit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above or for the expansion in size of outdoor advertising signs as allowed by (f) above. The purposes of the Sign Bank permitting process are to ensure that the quantity and size of outdoor advertising signs in the City of Fort Smith and its extra-territorial jurisdiction area do not increase and to ensure proper placement of replaced or relocated outdoor advertising signs.
- A. The owners of each outdoor advertising sign existing as of the effective date of these regulations shall be given a credit for the sign and the size of its face(s) within the Sign Bank. A double faced or V-type outdoor advertising sign shall entitle an owner to a single credit in the Sign Bank (not an additional credit for additional faces).
 - B. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the city planning department of the removal of the sign in writing within thirty (30) days of the removal in order to avoid action by the city planning department to delete or cancel the subject sign credit.
 - C. Prior to the issuance of a building permit for the construction of a new outdoor advertising sign or the relocation of an outdoor advertising sign, the applicant shall submit evidence that an existing sign bank credit belonging to the owner/applicant is assigned to the new or relocated sign.
 - D. Prior to the issuance of a building permit for an outdoor advertising sign with expanded size pursuant to (f) above, the applicant shall submit evidence that an existing sign bank credit (or credits if the square footage of an existing sign with a credit is insufficient to provide the expanded size applied for) belonging to the owner/applicant is assigned to the sign to be constructed pursuant to (f).
 - E. The owner of an existing outdoor advertising sign credit may transfer and assign the credit to another person or entity by delivering to the city planning department an acknowledged document identifying the transferred sign credit. Partial assignments of a sign credit for the purpose of meeting square footage requirements pursuant to (f) above are not allowed.

Memo

To: City Planning Commission

From: Planning Staff

Date: May 10, 2019

Re: Unified Development Ordinance Text Amendment – *Community Food Services*

Staff is proposing a text amendment to allow *community food services* as a conditional use in the C-2, C-3, and C-4 zoning districts. Currently, it is a conditional use in the C-5, C-6, and I-1 zoning districts.

The Unified Development Ordinance (UDO) defines *community food services* as establishments that collect, prepare, and deliver food for the needy. They distribute clothing and bedding, run collections for food donations, and provide meals at fixed or mobile locations. Examples are food banks, meal delivery programs, and soup kitchens.

Allowing *community food services* as a conditional use will require Planning Commission approval while providing location flexibility by adding more zoning districts. Conditional Uses are utilized when certain uses are defined as conditional because of the potential harmful effects the use can cause to nearby property and because the requirements needed to eliminate those harmful effects vary from site to site.

With it being a Conditional use, the Planning Commission will review the overall compatibility of the planned use with surrounding property. Special conditions can be added to the approval such as parking, deliveries, scheduling, screening, etc. and other items that might be necessary to insure no harmful effects will occur to nearby properties.

Please let us know if you have any questions.

Appendix A

[illegible]

Conditional Use

Memo

To: City Planning Commission

From: Planning Staff

Date: April 29, 2019

Re: Conditional Use #10-5-19 - A request by Darla Lackey, agent for Visiliki Properties, for Planning Commission consideration of a Conditional Use request for a community food services use located at 2711 Park Avenue

PROPOSED CONDITIONAL USE

The conditional use will allow for an approximate 852 s.f. community food services use in a Commercial Light (C-2) zone.

LOT LOCATION AND SIZE

The subject property is on the northeast corner of North Greenwood Road and Park Avenue. The tract contains an area of 0.16 acres with approximately 140 feet of street frontage along Park Avenue and 50 feet of street frontage along North Greenwood Avenue.

EXISTING ZONING

The existing zoning on this tract is Commercial Light (C-2). Characteristics of this zone are as follows:

Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 10 feet	
Side Yard Setback – 10 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

SURROUNDING ZONING AND LAND USE

The areas to the north, west, and south are zoned C-2 and are developed as a salon, offices, and radio station.

The area to the east is zoned Residential Single Family Medium/High Density (RS-3) and is developed as single family residences.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies North Greenwood Road as a Minor Arterial and Park Avenue as a local road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Neighborhood Commercial. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise.

SITE DESIGN FEATURES

Parking – The applicant has four dedicated spaces off of Park Avenue. Additionally, she states the majority of her clients walk or use public transportation.

Signage – No new signage is proposed. If a new sign is to be constructed a sign permit shall be required.

Lighting – No new lighting is proposed.

NEIGHBORHOOD MEETING

A neighborhood meeting was held on Friday, April 19, 2019 at 6:00 P.M. at 2711 Park Avenue.

Fourteen members and neighboring property owners were present at the neighborhood meeting. No objections were expressed.

STAFF COMMENTS

The applicant is proposing to utilize 2711 Park Avenue as a community food services use in a Commercial Light zone. Currently, *Community Food Services* is not a permitted use in the C-2 zoning district. A companion text amendment proposes to allow the use as a conditional use in the Commercial Light zone. The UDO defines *community food services* as establishments that collect, prepare, and deliver food for the needy. They distribute clothing and bedding, run collections for food donations, and provide meals at fixed or mobile locations. Examples are food banks, meal delivery programs, and soup kitchens. Ms. Lackey plans to distribute food on Saturday, Sunday, and Monday from 10:00 a.m. to 4:00 p.m. by appointment only. They will also offer some food delivery.

Staff received an email from a property owner in the 500 block of Lecta Avenue objecting to the proposed development based on concerns with incompatibility, traffic and litter. A copy of the email is enclosed.

STAFF RECOMMENDATIONS

If the Planning Commission is inclined to approve the application it will have to be contingent upon Board of Director approval of the companion UDO text amendment allowing *community food* services as a conditional use in the C-2, C-3, and C-4 zones. Additionally, staff would suggest the following:

1. All food distribution shall occur following the schedule by appointment only as proposed by the applicant so as to not cause a traffic problem for the surrounding properties.
2. No outdoor storage of materials, supplies, or donations.
3. If a dumpster is required it shall be screened in accordance with the UDO requirement.
4. Any new signage shall be required to obtain a sign permit.
5. Any new site lighting shall be in compliance with Section 27-602-5 of the UDO.
6. All *community food services* activity at 321 May Avenue shall cease.

Conditional Use # _____

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Wick's Property

Name of Authorized Agent (if applicable) Darla Lackey

Legal Description of property included in the conditional use request:

2

Street Address of Property:

2711 Park Ave Fort Smith AR 72901

Existing Zoning Classification:

Proposed Zoning Classification (if applicable):

C-2

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

food dining - helping families with food.
we would only like to be open ^{2 or 3 days a week} Sundays and Monday

What amenities are proposed such as landscaping and screening?

none

OR
Saturday & Sunday
By apt only
10-4 pm

Darla Lackey
Owner or Agent Name (please print)

321 N. May Ave
Owner or Agent Mailing Address

479 312 0962
Owner or Agent Phone Number

Signed:

[Signature]
Owner

Or
Darla Lackey
Agent

5913 Townsen Ave 72904
APT A

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

LOTS 30 & 31, BLOCK 6, KINKEAD ADD'N
CITY OF FT. SMITH, SEBASTIAN CO.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE

AUTHORIZATION OF AGENT


If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a conditional use by application do hereby authorize Darla Lackey to act as our agent in the
(Print Name of Agent)
matter.

(Type or clearly print)
NAMES OF ALL OWNERS.

1. Visilki Prop.
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

SIGNATURE OF ALL OWNERS.



This form is necessary only when the person representing this request does not own all the property.

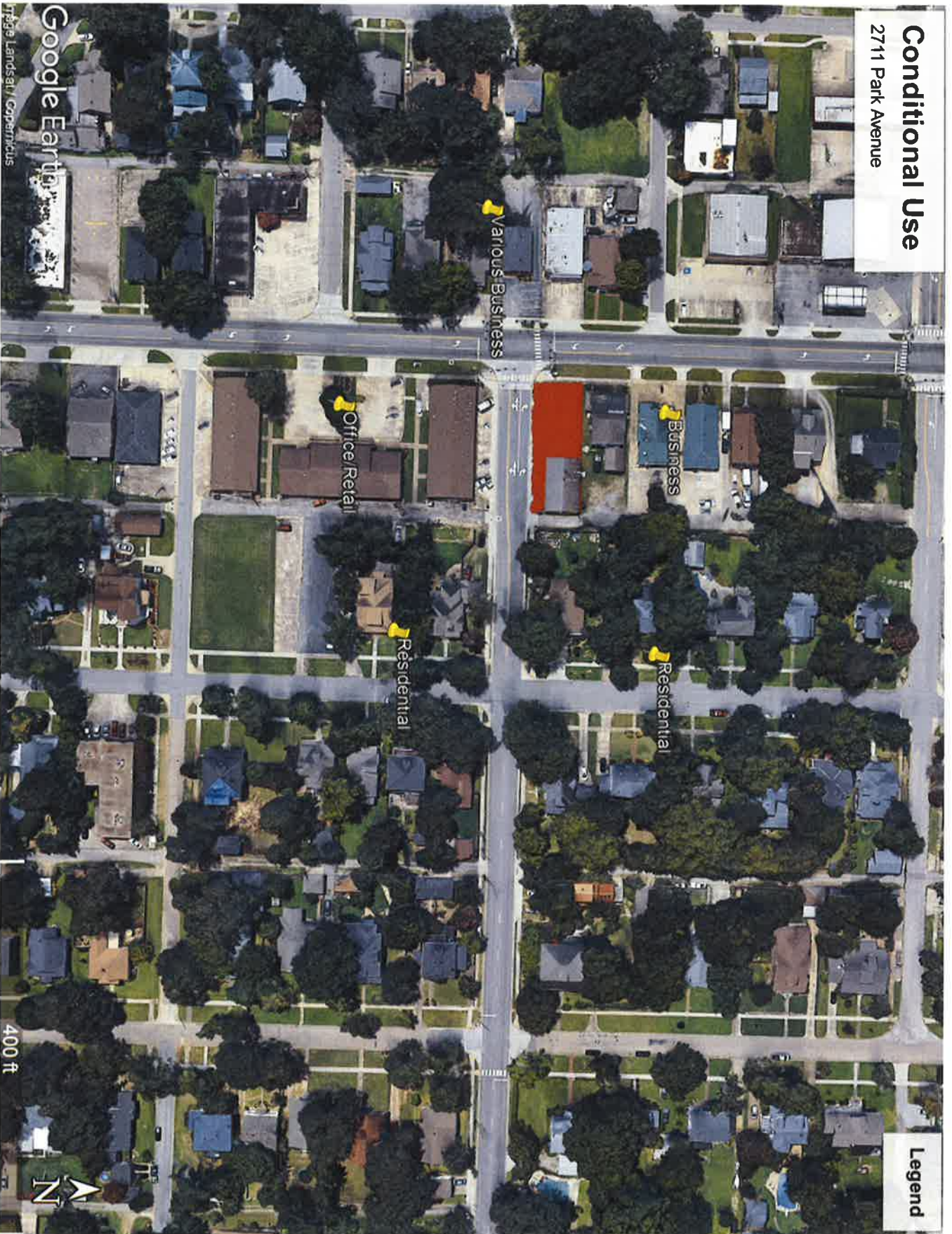
Conditional Use #10-5-19: Community Food Services 2711 Park Avenue



Conditional Use

2711 Park Avenue

Legend



Meeting Minute Notes
Pay it Forward – Fort Smith
Community Meeting
04/19/2019
2711 Park Ave, Fort Smith, AR

Meeting scheduled for 6:00 pm
Called to order 6:15 pm

14 people in attendance:

- Darla Lackey – President
- Craig Wootton – Vice President
- Zach Mulson – Grant Writer
- Carol Lewis – Dir of Community Development
- Susanna Sissons – Dir of Community Development
- Janell Camarena – Landlord
- Rich Cantrill
- Wilma Williams
- Ambrina Larson
- Shetai Miller
- Melinda Reed
- Rose Hensley – Secretary
- Tammy Benton
- Jerri Muppert

Darla Lackey speaker –

- Introductions Darla as Founder and President, Janelle and landlord for the property
- Brief explanation of who Pay it Forward is and why they are here as an organization
- Announcement of upcoming city board meetings on May 7th, 2019 at Creekmore Park at 11:30 am and May 14th at the school services center at 5:30 pm where the issue of the organizations unconditional use permit will be an item on the agenda and a call for volunteers to attend both meeting
- Detailed outline of what the unconditional use permit is that the organization is asking for. Disclosure of fees being waived by the city for the permit
- Plan for upcoming Easter Sunday giveaway discussed
- Fundraising needs discussed for new expenses for utilities and rent in the proposed new building
- Explanation that Pay it Forward will be transitioning to food only programs and no longer be accepting or giving away other item once moved to new location
- Explanation that once moved to new building, the organization will be expanding to offer food bank services on both Sunday and Monday.
- Parking availability/ use of adjacent spaces for neighboring building discussed with goal to be that the organization will operate with days and

Meeting Minute Notes
Pay it Forward – Fort Smith
Community Meeting
04/19/2019
2711 Park Ave, Fort Smith, AR

hours that minimize the impact of neighbor business and community residents. A parking agreement will be drafted and signed.

- Recap of the organization's mission statement and general purpose for organizing and operating, non profit status and 501(c)3 progress, funding sources, food bank program, plans for gardening classes, food storage and canning classes and future goals to eventually offer grants for education assistance.
- Discussion that architectural plans have been completed and are available for inspection for the building.
- Brief overview given by Secretary, Rose Hensley of what to expect at the upcoming city Board of Director's meeting and what will be expected of those attending them
- Floor opened up for questions from the community – no questions posed

Approval of community for Pay it Forward Fort Smith to continue operations in the new building called for a vote of all attending: Ayes 14, Nays 0

Meeting adjourned at 6:37 pm

From: [Megan Raynor](#)
To: [Don Keese](#); [Griffin Hanna](#); ["kelly@beshearsconstruction.com"](#); [rmplancomm@gmail.com](#);
[ret@childersarchitect.com](#); [vicki@dixiecupfcu.arcoxml.com](#); [brian@petreeco.com](#); [Bailey, Wally](#); [Rice, Maggie](#);
[Andrews, Brenda](#)
Subject: 2711 Park Ave.
Date: Thursday, May 09, 2019 9:47:57 AM

Good morning,

I'm writing about the proposed conditional use for 2711 Park Ave. I do not feel like a food distribution center is suitable so close to a neighborhood. It will increase foot and vehicle traffic at an area that is already a busy intersection. In driving past the Sack Lunch building for many years, this center would probably increase litter in the area, too.

I am very much for helping others. But why not partner with other groups who have a similar mission.

Thank you for your time.

Megan Raynor
504 Lecta Ave.

Memo

To: City Planning Commission

From: Planning Staff

Date: May 10, 2019

Re: UDO Text Amendment – Massard Road Overlay

The Planning Staff is proposing the Planning Commission consider an overlay district on Massard Road between Little Massard creek to the north and South Zero Street to the south. The proposed overlay district is the natural connection between the Phoenix Avenue Overlay District and the Massard / Zero Overlay District and Chaffee Crossing District.

We hosted a property owner meeting on May 6th with four property owners attending. Using the Sebastian County Assessor's records, we sent letters to all property owners within 300 feet of the Massard Road corridor. The letters included a copy of the proposed overlay district. None of the property owners in attendance were in opposition. We received one phone call in support. We have not received any objections.

The design standards on this virtually undeveloped corridor will require 100% high quality materials on the front facades of all buildings and on all façades of buildings adjacent to residentially zoned or developed property. Additionally, pylon signs and outdoor advertising signs (billboards) are prohibited.

Staff recommends approval of the proposed text amendment.

REGULATIONS FOR AN OVERLAY ZONE
MASSARD ROAD

Overlay zone for the Massard Street Corridor.

(a) *Area of applicability.* The regulations adopted by these 2019 amendments to the Unified Development Ordinance shall apply to all real properties zoned with designations other than residential and physically contiguous to the right-of-way lines (both sides of the street) of the hereinafter designated sections of Massard Road. The regulations shall be applicable to all portions of said tracts of real property which are located within three hundred (300) feet of the right-of-way line. The regulations apply on Massard between Zero Street/Highway 255 and Little Massard Creek north of Phoenix Avenue.

(b) *Signage regulations.*

1. Monument sign defined. When used herein, "monument sign" shall refer to a ground mounted sign having no more than two (2) faces and being constructed of materials of the same type and in design similar to the principal structure located on the lot on which the sign is located.
2. Signage per lot. Each separately owned lot is allowed no more than one (1) monument sign; provided, any such lot having frontage on two (2) public streets, is allowed no more than two monument signs. In addition to the allowed monument sign(s), each such lot is allowed signs of a maximum total of six (6) square feet to provide traffic directions.
3. Sign size. Each monument sign shall be a maximum of six (6) feet high (inclusive of the base and the display area) and shall not be more than one (1) square foot in area per linear foot of lot frontage with a maximum area of seventy-five (75) square feet in area per sign. As to the monument sign for a retail center or business park, as defined in zoning code section 27-200, the sign area and height may be increased by an additional twenty (20) percent if only identification of the name and/or logo of the retail center or business park (and not individual tenants) is used on the monument sign.
4. Wall sign allowance. The wall sign area for the principal structure shall not exceed twenty (20) percent of the wall area. The wall sign area for each accessory structure shall not exceed five (5) percent of the wall area on which the sign is located.
5. Sign content. Content of monument signs shall be such that no more than fifty (50) percent of the monument sign may be used for advertising. The remaining area of a monument sign is limited to the name and/or logo of the business(es) operating in the structure.
6. Content of wall signs for the principal structure shall be limited to the name and/or logo of the business(es) operating in the structure. Directional and information signs meeting the conditions of paragraph (4) above are permitted.

7. Content of wall signs for each accessory structure shall be limited to building identification, directional information and the name and/or logo of the business(es) operating in the structure.
8. Advertising shall not be permitted on the principal or accessory structure, wall sign or traffic direction sign.
9. Outdoor advertising (offsite) signs. Outdoor advertising (offsite) signs are prohibited in that portion of the area described in (a) above.
10. Signs prohibited. Banners, marquees and changeable letter reader boards and portable signs are expressly prohibited. Changeable letters and/or numbers are permitted in the advertising portion of monument signs. Except as allowed by this section, no signs shall be installed in the area described in (a) above.
11. Other sign ordinances. All signs allowed by these regulations shall comply with further sign regulations of the zoning code and the Code of Ordinances. In the event of a conflict of these regulations and the further sign regulations of the zoning code and the Code of Ordinances, these regulations will control.
12. Variance procedures. Administrative decisions applying the provisions of this section may be appealed to the board of zoning adjustment according to the procedure provided for in section 27-337 of the Code of Ordinances.

(c) *Architectural design requirements for new commercial buildings and additions to existing commercial buildings.*

(1) *Purposes.*

- a. To protect and enhance the Massard Corridor.
- b. To provide good civic design and arrangement.
- c. To preserve property values of surrounding properties.

(2) *Commercial building design standards.* The exterior building facade of all commercial buildings must be constructed with 100% high quality materials on any façade facing the street right of way and 51% high quality materials on the side and rear facades. If the building is constructed next to property zoned or developed residential all facades shall be 100% high quality materials. High quality materials include brick, wood, native stone, tinted glass, stucco, exterior insulated finished systems (EIFS) or tinted/textured concrete masonry units. Smooth-faced concrete block, plain or untextured tilt-up panels and prefabricated steel panels are prohibited as the predominant facade.

(3) *Effects of approval.*

- a. An approved design shall be binding on the applicants and their successors and assignees. No building permit shall be issued for any building or structure not

in conformance with the approved design. No element of an approved design shall be eliminated, altered or provided in another manner unless an amendment is approved in accordance with this section, provided, however, that the director may approve such minor changes in the design as will not cause any of the following circumstances to occur:

1. Any change to the recurring, unifying and identifiable theme from one building to the next in a single development.
2. Any modification having an adverse impact on adjacent property.
3. Any modification that lessens the requirements for screening of the mechanical equipment.
4. Any modification that lessens the requirements for all facades of a building, visible from adjoining properties or public streets, having similar design characteristics to the building's front facade.
5. No change permitted facing residentially zoned or developed properties.

(d) *Any standard not specifically covered by this section shall be subject to the general requirements of the Unified Development Ordinance.*

Fort Smith City Limits

Water Bodies

Public Schools

Parks

RED – PROPOSED MASSARD OVERLAY
BLUE – PHOENIX AVENUE OVERLAY
YELLOW – MASSARD ZERO OVERLAY



**LAST PAGE OF
MASSARD ROAD OVERLAY ZONE
REGULATIONS**

MEMORANDUM

To: Planning Commission
From: Planning Staff
Date: May 9, 2019
Subject: Extraterritorial Jurisdiction - Planned Zoning District

The Unified Development Ordinance (UDO) currently provides only one method, conventional rezoning, for rezoning property in the city's Extraterritorial Jurisdiction. Staff proposes an amendment to the UDO that would add the option of rezoning property in the ETJ through the Planned Zoning District method. The UDO was amended in 2013 to add this zoning method for properties inside the city limits. The PZD has proven to be an effective and popular zoning method. Since 2013, 36 PZD applications have been approved.

The PZD process allows a developer to propose a hybrid zoning district for a development that may not fit well into one of the ETJ zoning districts. The proposed PZD will encourage applicants to submit project booklets with design requirements or development standards that are greater than those currently required in the ETJ regulations. This will result in higher quality developments with such amenities as high-quality exterior materials, landscaping and monument signage.

The PZD requires a project booklet describing the many facets of the proposed rezoning and the development project. While the project booklet can contain some thorough and detailed information it can also include conceptual information that helps describe the project.

The project booklet becomes an integral part of the property rezoning. All development that occurs following a PZD rezoning approval must comply with the details of the project booklet. Developments that do not comply with the PZD project booklet may require an amended application to be approved by the Planning Commission and Board of Directors.

The PZD does not replace conventional zoning in the ETJ. It is merely another process or tool by which a developer or property owner could secure a rezoning.

The proposed amendment to the UDO includes sections regarding the submittal requirements, the review process, factors to be considered, possible actions by the Planning Commission and Board of Directors, and amendments to the project booklet/plan.

Should the Planning Commission agree, we ask that a recommendation be made to the Board of Directors to amend the UDO.

Enc.

**EXTRATERRITORIAL JURISDICTION
PLANNED ZONING DISTRICT
REGULATIONS**

27-445- Planned Zoning District

27-445- Purpose

- A. The process is deemed necessary to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically, the purposes of this article are to encourage:
1. Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan;
 2. Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
 3. Flexible administration of general performance standards and development guidelines;
 4. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.
 5. Developments that utilize design standards greater than the minimum required by the UDO.

27-445- Submission Requirements.

The director shall prepare an application form which specifies the information to be submitted in support of a planned zoning district. This shall include at a minimum:

1. A pre-application conference with the Planning and Zoning Department is required. The pre-application conference shall be held at least ten (10) days before the submission date unless otherwise specified by the Director.
2. Application Fee
3. A project booklet, submitted graphically and in narrative form, addressing as many items as applicable. In no instance shall the design requirements and development standards be less than those found in Chapters 27-445
 - a. Reason (need) for requesting the zoning change and response to how the proposal fulfills the intent/purpose of the Planned Zoning District.

- b. Current ownership information (landowner/applicant and representative of applicable) and any proposed or pending property sales.
- c. Comprehensive description of the scope, nature, and intent of the proposal.
- d. General project concept:
 - i. Street and Lot Layout
 - ii. Site plan showing proposed improvements
 - iii. Buffer areas, screening, and landscaping
 - iv. Storm water detention areas and drainage
 - v. Undisturbed natural areas
 - vi. Existing and proposed utility connections and extensions
 - vii. Development and architectural design standards
 - viii. Building elevations
 - ix. Proposed signage (type and size)
- e. Proposed development phasing and time frame
- f. Identify land use designations.
- g. Identify area and bulk regulations.
- h. A chart comparing the proposed planned zoning district to the current zoning district requirements (land uses, setbacks, density, height, intensity, bulk and area regulations, etc.)
- i. A chart comparing the proposed land uses and the zoning district(s) where such land uses are permitted.
- j. A chart articulating how the project exceeds the UDO requirements (ex. increased landscaping, increased high quality materials on the façade, etc.).
- k. Statement of how the development will relate to existing and surrounding properties in terms of land use, traffic, appearance, height, and signage.
- l. A traffic study when required by the Engineering Department (consult with staff prior to submittal)
- m. Statement of availability of water and sewer (state size of lines).

27-445- Application and Review Procedures

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.

- B. Neighborhood Meeting.** A neighborhood meeting is encouraged.
- C. Staff Review.** Following a determination of completeness, the Staff shall review the application.
- D. Notice and Public Hearing.** Following completion of Staff review and any neighborhood meetings, the application shall be scheduled for a public hearing before the Planning Commission.
1. Notice shall be provided, published, mailed and posted pursuant to Section 27-445.
 2. The Planning Commission may recommend a change in a zoning district category which constitutes a more restrictive change than requested by the applicant.
- E. Factors to be Considered.**
1. Rezoning Application -- Approval, approval as amended, or denial of the rezoning application shall be based upon consideration of the following factors:
 - a. Compatibility with the Comprehensive Plan, Master Land Use Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood).
 - b. Compatibility of the proposed development with the character of the neighborhood.
 - c. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
 - d. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.
 - e. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
 - f. That the application complies with all relevant ordinance requirements (for example 27-445).
 2. Project Booklet -- The following criteria shall be considered when reviewing the project booklet:

- a. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
- b. Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
- c. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety;
- d. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features;
- e. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
- f. The required right-of-way dedication has been identified by the City Engineering Department.
- g. All easements and utilities shall meet the requirements of the approving departments and agencies.
- h. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size.
- i. Articulate how the plan exceeds the UDO requirements. (ex. landscaping, high quality materials, signage, screening, and lighting etc.)

F. Planning Commission Action. Following the public hearing, the Planning Commission may recommend approval, approval as amended, or denial. The Planning Commission may also continue the application to a date certain.

- 1. The Planning Commission shall certify recommendations of approval or approval as amended to the Board of Directors for further procedure in conformity with A.C.A. tit. 14, ch. 56, subch. 4[§ 14-56-401 et. seq.]

The Planning Commission may impose a time limit for the development as described in the project booklet.

- 2. The Planning Commission's certified recommendations shall be automatically placed on the agenda of the Board of Director's second regularly scheduled meeting of the month following action by the Planning Commission.

G. Appeal. Appeals from the decisions of the Planning Commission shall be as follows:

1. If the Planning Commission denies a rezoning request or project booklet so that no recommended action has been certified to the Board of Directors, the applicant shall have the right to file a request for review of the Planning Commission's decision with the Board of Directors.
2. The request for review shall be initiated in the following manner or be considered waived:
 - a. Filing a written notice of such appeal with the office of the City Clerk, or the Clerk's designated agent, during normal business hours.
 - b. Filed on or before the tenth calendar day following the Planning Commission meeting at which the proposed rezoning and/or preliminary plan hearing was held, or following the date on which the Planning Commission handed down its decision of non-recommendation, if the date of decision differs from the date of hearing. Notice of review of such decisions to the Board of Directors shall be provided to those persons who were provided postal notice of the original application. When filing the notice of appeal, the applicant shall pay the sum established by the Board of Directors to cover the cost of providing such legal notice.
3. The review shall take place at the second regularly scheduled meeting of the Board of Directors, following the request for review deadline. After the filing of a notice of review, the request may not be withdrawn or the hearing date postponed without the approval of the Board of Directors.
4. If the Board of Directors denies the application the applicant shall not be permitted to reapply for the same or substantially same request for a period of one (1) calendar year from the date of action by the Board.

H. Action by the Board of Directors. When the Planning Commission certifies a proposed rezoning to the Board of Directors, the Board shall consider the criteria established in Section 27-445-(E) and may take any action including:

1. Approve the application and preliminary plan;
2. Approve as amended the application and/or preliminary plan. The Board of Directors may impose a time limit for the development as described in the project booklet; or
3. Deny the application and preliminary plan.
4. Where there is new, material evidence presented at the Board of Directors meeting that was not available to the Planning Commission, the Board shall return the application and preliminary plan to the Planning Commission for reconsideration based on the new evidence.

- I. **Appeal.** Appeal of the Board of Director's determination may be made to a court of record having jurisdiction.
- J. **Re-application.** If the Board of Directors denies a proposed preliminary development plan or rezoning application certified to it with the Planning Commission's approval, the applicant shall not be permitted to re-apply for the same or substantially similar request for a period of six (6) months from the date of the action. No such rejected proposal shall be re-submitted, even after the expiration of six months for the consideration of the Board of Directors until it has been resubmitted first to the Planning Commission for consideration.
- K. **Determination of Re-application.** The Director shall determine whether a re-filed application for rezoning meets the requirements of these provisions and whether the new application is the same or substantially similar to the previous application. The Director may consult with other departments, the Planning Commission, or the Board of Directors in making this determination. Appeals of the Director's determination decision may be made to the Planning Commission.

27-445- Amendments to the Planned Zoning District Plans

Once a PZD has been approved, significant changes may be made only after approval of a revised PZD. This requires re-submittal of the application through the same procedural requirements of the original application. Changes that are not considered significant pursuant to Section 27-445- (a) may be approved at the Director's discretion. Disapproval of the changes may be appealed to the Planning Commission.

A. **Criteria.** For the purposes of this section, significant changes shall be determined by the Director. Significant changes shall mean any of the following, provided they are still within the approved standards of the applicable zoning district.

1. Increases in density or intensity of residential uses by more than 5%;
2. Increases in total floor area (entire plan) of all non-residential buildings by more than 5% or 5000 square feet, whichever is less;
3. Increases of lot coverage by more than 5%;
4. Changes to the architectural style that shall make the project inconsistent with previous approvals;
5. Changes in ownership patterns or stages of construction that shall lead to a different development concept;

6. Changes in ownership patterns or stages of construction that shall impose substantially greater volumes on streets and load capacities on public facilities;
7. Decrease of more than 5% in areas devoted to open space or the substantial relocation of such areas;
8. Changes in traffic circulation patterns that will affect traffic outside of the project boundaries;
9. Modification or removal of conditions and stipulations to the planned zoning district approval; or
10. Modifications that change, amend, or violate the terms of the Comprehensive Plan.

B. **Approval.** Any changes that seek to vary the standards of the applicable district and cannot be approved through paragraph (A) above must either be approved by the Planning Commission through a Planned Zoning District rezoning application or through a variance request to the Board of Zoning Adjustment.

C. **Appeal.** Appeal of the Director's determination of whether changes are significant may be taken to the Planning Commission, whose decision shall be final. No further action shall be taken to process the application pending the Planning Commission's determination.

LAST PAGE OF
EXTRATERRITORIAL JURISDICTION
PLANNED ZONING DISTRICT
REGULATIONS